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SEPTEMBER 2004

WEEKEND
AT WHISKEY
CREEK



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Colin Daniel

BARRY AND MANDA STAR IN ANGLOPLATS' TROJAN WAR

LIMPOPO WHISTLEBLOWERS CHANGE THEIR TUNE ■ STRANGLERIES OF DIVORCE LAWYERS IN LOVE WITH MONEY ■ OBSESSION 2: THE BENSON SAGA CONTINUES ■ HELKOM BY TELKOM ■ SANLAM DOES THE RIGHT THING ■ CHIPS DOWN FOR HOUT BAY FISHWIFE ■ THIEVING ATTORNEY GOES ON CHICKEN RUN



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WEEKEND AT WHISKEY CREEK



Cover illustration by Colin Daniel

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Mention the name Manda Scheepers at a Sandton party and someone was sure to mutter the phrase: "Sleeping with the enemy".

But much more hinged on that weekend party at Anglo's secret hideaway than just Barry shacking up with Manda

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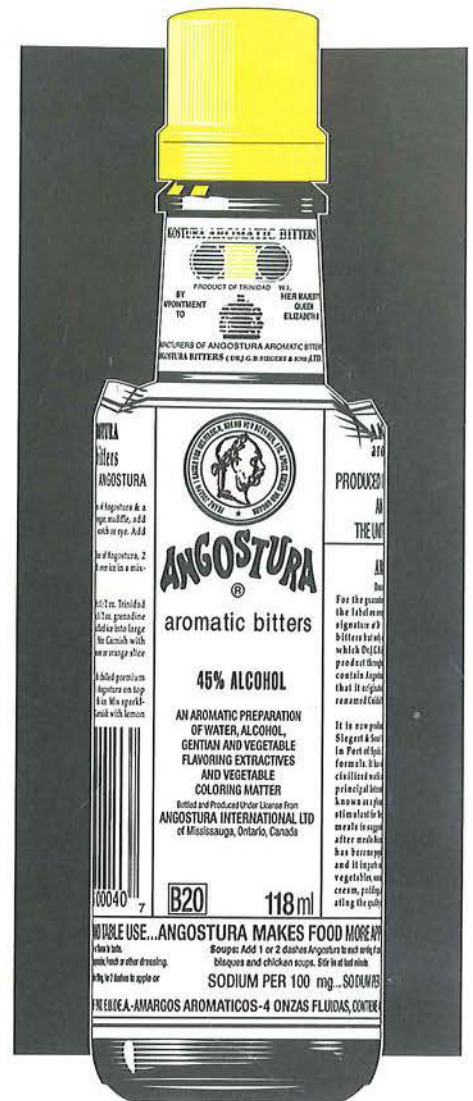
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NWWM 01

Benson goes a-courting

Running through your chilling saga of Richard Benson's sufferings (*nose59*), it seems to me, is an unanswered question: How does society allow the sort of thing that fills those pages to happen? Or: How do those ostensibly in leadership positions, where they could act positively, manage to turn a blind eye?

Take the legal profession: No thinking South African would for one moment suggest that Arthur Chaskalson is a

attorney H Mahommed's firm for an open and shut case of defamation. The case was set down for a magistrates' court hearing (all I could afford) a few days after you lifted the lid on their involvement in the Road Accident Fund scandal. But I had been advised that, while I was certain to win the case, there was a real possibility that I would end up with legal costs greater than any damages award I might get. So I was persuaded to accept an out-

of tolerating corruption, people who might otherwise behave with integrity come to believe that they have to join the corrupt in order to earn a living.

How to counter all this? Well, it demands a firm stance at the top. Is this stance likely? I leave you to judge. Meanwhile, keep at it!

SMJ (Mike) Young
Sedgefield

See the second instalment of Richard Benson's incredible story on page 16. - Ed.

too, have had a few finance agreements with Wesbank and am in the process of buying a new vehicle. No first prize for guessing who is having second thoughts about which finance house should get the business.

Tian Horn
Douglasdale

■ I have long held the view that *noseweek* is a noble and just publication and your recent coverage of the Pierre Pienaar saga totally justifies this view.

I would like to pay tribute to Jerome Smith for his chivalrous action in assisting Pienaar. Seldom has a captain of industry acted in such an unselfish manner; little wonder then that he has risen to his executive position. I wish them both success.

To all at *noseweek*: I congratulate you. South Africa needs *noseweek* more than you know.

George H
Johannesburg

See page 26 - Ed.

Sentech off!

I am astounded that Sentech's advertisements want us to believe that we can get broadband internet access by using a small "lunchbox-sized" device placed on a table (with lots of butterflies about) anywhere in one of the many Sentech coverage areas.

Since I earn a living from designing wireless connectivity systems I took the trouble to simulate the system shown in the Sentech advertisement to check its feasibility.

I used the "Pathloss" computer program, no doubt well known to the engineers at Sentech, since it is probably the international benchmark program for radio system design.

Without getting into the technicalities, I found that a reasonable bandwidth connection could only be established if the user (with butterflies?) is substantially less than 3km away from a Sentech tower - and provided there is a clear line-of-sight path from the user's antenna to the Sentech tower. By "clear line-of-sight" is meant no walls, no trees, no buildings (possibly even no

How does society allow the sort of thing that fills your pages to happen?

man of anything other than impeccable integrity, yet, as Chief Justice he presides over a system that repeatedly delivers injustice to people like Richard Benson. I bet he even reads *noseweek* from time to time.

Why are more people not pursuing the Benson route? I can tell you from personal experience that the system makes sure that we can't afford to do so. (In truth, of course, it should never be necessary.)

A few years ago, I had cause to go after the [now jailed]

of-court settlement that did little more than cover my legal costs. In an encounter with the Estate Agents' Board, I was subpoenaed as a witness and subjected to two hours of vicious cross-examination that left me more bruised than the offending party.

And when I attempted to halt the unprofessional activities of a member of the medical profession, the Medical Council told me - off the record - that they were powerless to act.

When government, by inaction, shows all the signs

Playing the race card

All the recent talk of a bid to bring Formula 1 racing to Cape Town coincides with your sudden journalistic interest in Free State motor sport (*nose59*), which kinda (as JFK would say) leads me to wonder if maybe you won't be the subject of some investigative journalism yourselves not so far down the road...

Is *noseweek's* nose clean...?
Chris Grundy
RaceMakers, Kloof

Clean as a whistle. (Although we do get snotty from time to time.) If you are suggesting that we're in favour of Cape Town getting on to the Formula 1 Grand Prix circuit, you're wrong. We reckon it would be only marginally less foolish for Cape Town to pay the ludicrous fortunes sought by the wide boys who are desperately trying to flog the rapidly declining GP circuit to naïve third world politicians, than it was for Welkom and the Free State to do so. - Ed.

Wild Wesbank

I am pleased that certain individuals in charge of large companies are backing ordinary citizens in their fight against "corporate greed and corporate bullying" as Mr Jerome Smith put it (*nose59* - "Drug company boss gives WesBank victim shot in the arm"). I hope other well-heeled corporate heads will be moved to emulate him. I,

Gus



I suppose a shag is out of the question?

butterflies) between the user's antenna and the Sentech tower.

Why, therefore, the misleading advertisement? It seems only to have contributed to the unholy mess that Sentech now finds itself in.

Lore Holtzhausen
Germiston

Oily obscenity

It's obscene that oil company executives earn millions a year in "miscellaneous payments" when the two petrol attendants [names withheld] who attend to my car with efficiency and unfailing courtesy at a local petrol station in Fontainebleau [name withheld] are paid less than R500 a month. Please do something to underline this outrage.

A survey of the disparity between the lowest paid and the top CEOs in the sanctimonious big companies would help make people aware.

Toni Gous
Randburg

Till the Well Runs Dry

Open letter to Environment Minister Marthinus van Schalkwyk:

The recent screening of the programme *Till the Well Runs Dry* on 50/50 once again highlighted the plight of the Garden Route. While this is old news, still nothing is being done to halt the destructive and callous way in which the development of the Garden Route is taking shape. How many more developments can the area take? How many more golf courses do we need and how many can we sustain? Most residents are concerned about what is happening, yet do not know who to turn to or what to do about it.

The officials in charge of approving development and controlling planning say that their hands are tied and that they cannot stop development. Why not? Must it first reach crisis levels before there is any intervention? And what of those who continue openly to flout the rules? Is action

being taken against them or do the supposed protectors of our towns merely shrug their shoulders and move on to the next development? Who is to be held accountable?

Plettenberg Bay will reportedly not have enough water for the December holidays, yet nothing is being done about it. Supposedly the only thing to do is to pump even more water from the Keurbooms River than is permissible or feasible.

But what when the river runs dry?

While key officials all tacitly agree that Knysna is unable to sustain its present level of growth, nothing constructive is being done about it.

If our local officials cannot or will not help, then could the ministers or the media please take up our cause and help to stem the tide of destruction? Please, let's keep what little we have left of the Garden Route.

Sheldeen Wetter
Knysna Tonquani Lodge

Write a limerick and win a Sonnet

noseweek, with Pen & Art, is giving away a Parker Sonnet fountain pen worth about R1,200 each month for the best topical limerick submitted to the magazine.

Email your sanctimonious, scurrilous, rude, amusing or insightful scribblings to noseweek@iafrica.com; post to Box 44538, Claremont 7700; or fax to (021) 686 0573.

Entries must be received by Friday 17 September and must be headed "September Limerick Competition"

The winning entry will be published in the following month's edition of noseweek. The editor's decision is final.

And the winner is (da-da!)...

The poor are a minor distraction,
Grand West is the major attraction;
You'd be a poor fool
If you trusted Rasool
And his greedy Affirmative Faction

Erik Schaug
Hout Bay



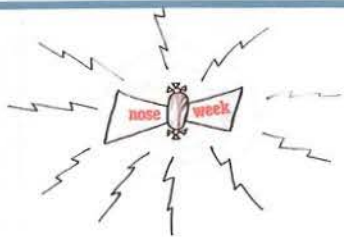
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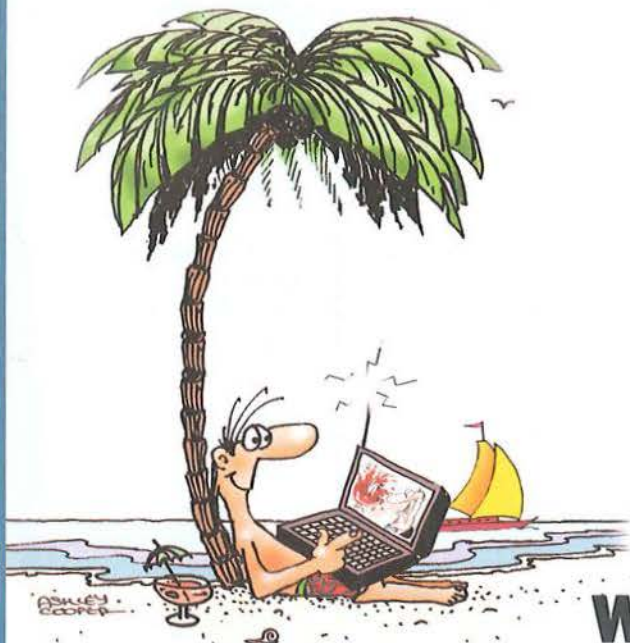
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Tel: (021) 686 0570
Fax: (021) 686 0573
noseweek@iafrica.com

Editor

Martin Welz

Managing editor

Marten du Plessis

Production editor

Tony Pinchuck

Gauteng bureau

Jack Lundin

Cover art direction

Len Ashton

Sub-editor

Gill Warren-Brown

Reporter

Jacquie Kadey

Foreign correspondent

James Sanders

Cartoons

Gus Ferguson

Myke Ashley Cooper

Contributors

Nicola Dudley

Tim James

Subscriptions

Maud Petersen

Advertising

Adrienne de Jongh

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Protecting whistleblowers

Some of the stories that appear in *noseweek* come from deep-cover whistleblowers – the real McCoy. Most come from people who might only loosely be described as whistleblowers; they risk embarrassment and unwanted publicity, not their jobs, homes and future happiness. Invariably they are nervous in that first call; sometimes they don't want to give their names. But they trust us, because we have a hard-won reputation for treating the confidentiality of our sources as sacrosanct. Quite apart from this being proper behaviour on our part, it's essential if we are to be able to do our job.

An estimated 25% of all large companies now operate some form of hotline to enable employees to report wrongdoing by their colleagues and bosses. Three big accountancy firms lead the way: PricewaterhouseCoopers (affiliated to Whistleblowers), Deloitte's with Tip-offs Anonymous, and KPMG's Ethics Line.

Anonymity and freedom from intimidation and reprisals are guaranteed, they promise.

What's the saying? "Promises are made to be broken."

I suspect that these facilities are aimed at stopping theft from corporations, rather than at ensuring they behave ethically. While most major corporations and state institutions pay lip-service to the principle of transparency and the protection of whistleblowers, experience has taught me that they can be as determined and vindictive as the criminal fraternity when it comes to hunting down those they see as squealers.

Once whistleblowers – of the more serious kind – are identified, there is very little that can be done – by the press, anyway – to ensure their safety. Anonymity is their only protection.

I first learned this in the early 1980s when a young prosecutor, Adam Klein, approached me to blow the whistle on systematic and officially sanctioned abuses at the Bantu Commissioners "courts" set up to enforce the hated pass laws. The resulting *Sunday Times* exposé helped ensure the closure of that iniquitous institution – a compliment to the value of Klein's speaking out. But Klein paid a steep price for his bravery: the security police continued to hound him and anyone who dared employ him, for years, effectively destroying his career. Today, more than 20 years later, he lives unacknowledged and in poverty. That haunts me.

Another case that comes immediately to mind is that of SA Reserve Bank inspector Nico Alant, who blew the whistle on the many strange goings-on at that not very august institution in the 1980s and early 1990s. Among his many revelations (most of them were made to the appropriate authorities, not to the press) that the bank wished to suppress concerned one of their "customers" who was implicated in the murder of the British accountant who had fronted his illegal offshore financial dealings. The accountant

was threatening to inform the Reserve Bank at the time he was murdered by a hired hitman from South Africa.

Alant was hounded out of his job and, more than 10 years later, the Reserve Bank was still harassing him through the courts. Alant, a brilliant man, suffered years of isolation and unemployment. Thankfully, today he is successfully employed as legal advisor to a major IT company – with his reputation intact. Which is more than one can say for his former employer.

Most recently there is the disturbing case of Michael Addinall, a member of the criminal syndicate that illegally shunted more than R2bn offshore in the great forex scam (*nose56*). From the moment of his arrest in 2002 Addinall sought to become a state witness in exchange for leniency. He was persuaded to plead guilty to charges against him, and prepared a dossier containing names and a mass of detail to help both the Scorpions and the SA Revenue Service's investigators. The Scorpions then deferred to the SARS investigation and withdrew. Two years later we discovered that SARS has done nothing and remains strangely uninterested in following his leads – particularly those leads that may lead to corrupt members of their own staff.

The only time SARS springs into action is when Addinall applies for parole. They're invariably there to oppose it. And when his name appears in *noseweek*.

In May we published his story. At that stage Addinall was quietly serving out his five-year sentence in a single cell in the relative comfort and safety of Atteridgeville prison.

On 6 August, just days after our last issue appeared with a follow-up story demonstrating SARS's negligence, Addinall was told he was being transferred to a single cell at Pretoria Central to be "nearby the court" for his sequestration hearing the following week. Instead he was moved to a communal cell with more than 100 other prisoners in Pretoria local prison.

The hearing is long past, yet he remains there.

At the sequestration hearing Judge Krige assured Addinall that his safety was "guaranteed". Says Addinall from prison: "At Pretoria Local I am dumped in a cell with 110 people sentenced for murder, hijacking, rape, aggravated robbery etc. I approached the head of the prison, Mr Modisadife, and deputies Coetzee and Sikhele, for transfer to Central Prison B section single cells, or to be returned to Atteridgeville, where I felt safe. This was declined.

Addinall is the ultimate victim for persecution. He can't leave town. SARS's actions to date suggest they may have a hand in it. If so, they should expect to hear more from us. We are investigating.

The Editor

Shortly after the article "When Barry left Sally" appeared in our April issue, AngloPlatinum boss Barry Davison entered the witness stand in the Pretoria High Court to give evidence in his post-divorce case. He has offered his ex-wife Sally, to whom he was married for 32 years, less than 10% of his estate – a mere R7m of his estimated R100m-plus fortune – and is opposing her claims for more tooth and nail, day after day and week after week in the high court.

The hearing was already in its third or fourth week.

But when the April session of the case opened, Davison appeared, briefly, to have forgotten about Sally; he had only *noseweek* on his mind. Led by his senior counsel, Mr Kuper SC, he spent hours telling the court what he thought about *noseweek* in general (he doesn't approve of our sort of publication), and about that March article of ours in particular. In the process he confirmed much of what we had reported.

We may have occasion to return to all of that at some future date.

In the meantime, however, just one small item of his evidence has triggered the discovery of a platinum mine – nearly a billion rands-worth – of hot information about the secret business dealings of Barry Davison, his new wife Manda and their friends in government that the world ought, we believe, to be told without delay.

In our March story the following paragraphs appeared:

"In 1997 there was talk that he [Barry] was having an affair with a lawyer. Early that year Davison's Angloplats (or Amplats, as it was then known) was locked in a fierce legal battle with rival Trojan Platinum over mineral rights. Trojan's lawyers were top Johannesburg legal firm Webber Wentzel Bowens. The attorneys handling the case were Michael [in fact Martin] Brink and a pint-sized firebrand of a woman named Manda Scheepers."

Our story continued:

"Davison was totally obsessed with the case and the obvious ability of Scheepers. 'Manda was very clever and it drove Barry mad because Amplats actually lost the case,' recalls an associate. 'For Barry to lose is something he cannot tolerate. And I'm sure that was the attraction then; she was able to beat him.'"

But, we are now led to ask, had that old associate of Barry's got it right? Did Amplats and Barry in fact lose? Our latest information gives us reason to believe that, in that particular case, Amplats may well have lost – to a worse degree than the company's shareholders have, until now, had reason to suspect. But, if you look at the bigger picture, maybe Barry opted to buy off someone who posed a much bigger threat to Amplats' monopoly of the Bushveld platinum reefs – a much more delicate matter. The kind you would want to keep secret.

And when it comes to Barry Davison himself losing ... given what we now know, both about his character and about the Trojan case, we find that hard to believe.

Admittedly it all happened at about the time when, if you mentioned the name Manda Scheepers at a party in Sandton where lawyers were present, someone was sure to mutter something

**Mention the name
Manda Scheepers
at a Sandton party
and someone was
sure to mutter the
phrase...**

about "sleeping with the enemy". But not even the reward of the affections of Manda herself would, we believe, have persuaded Barry to sign away Amplats assets worth nearly R900m to a Johnny-come-lately Canadian company – let alone for a mere R24m.

Even if he did, in the week that that deal was finally wrapped up (it took a while), buy Manda a R3-million house in Westcliff – when they weren't even married.

No, there has to have been something more to it than Amplats losing a case – something, somewhere to make Barry come out a winner. That's our guess.

But we are running ahead of ourselves. According to Mr Davison we – and you – are not supposed to know anything about that "dispute" between Amplats and Trojan that he and Amanda handled so adeptly way back in the late 1990s. In fact, when on 30 April this year, he was asked in court to comment on *noseweek's* reference to the "fierce legal battle with Trojan", Barry declared: "That was certainly not a matter that was widely known beyond my most intimate business circle, my family and my attorneys."

Interesting, don't you agree? Amplats – headed by mean Barry Davison, for goodness sake! – agreeing to part with platinum rights worth close on R900m to a competitor for just R24m in cash? Never!

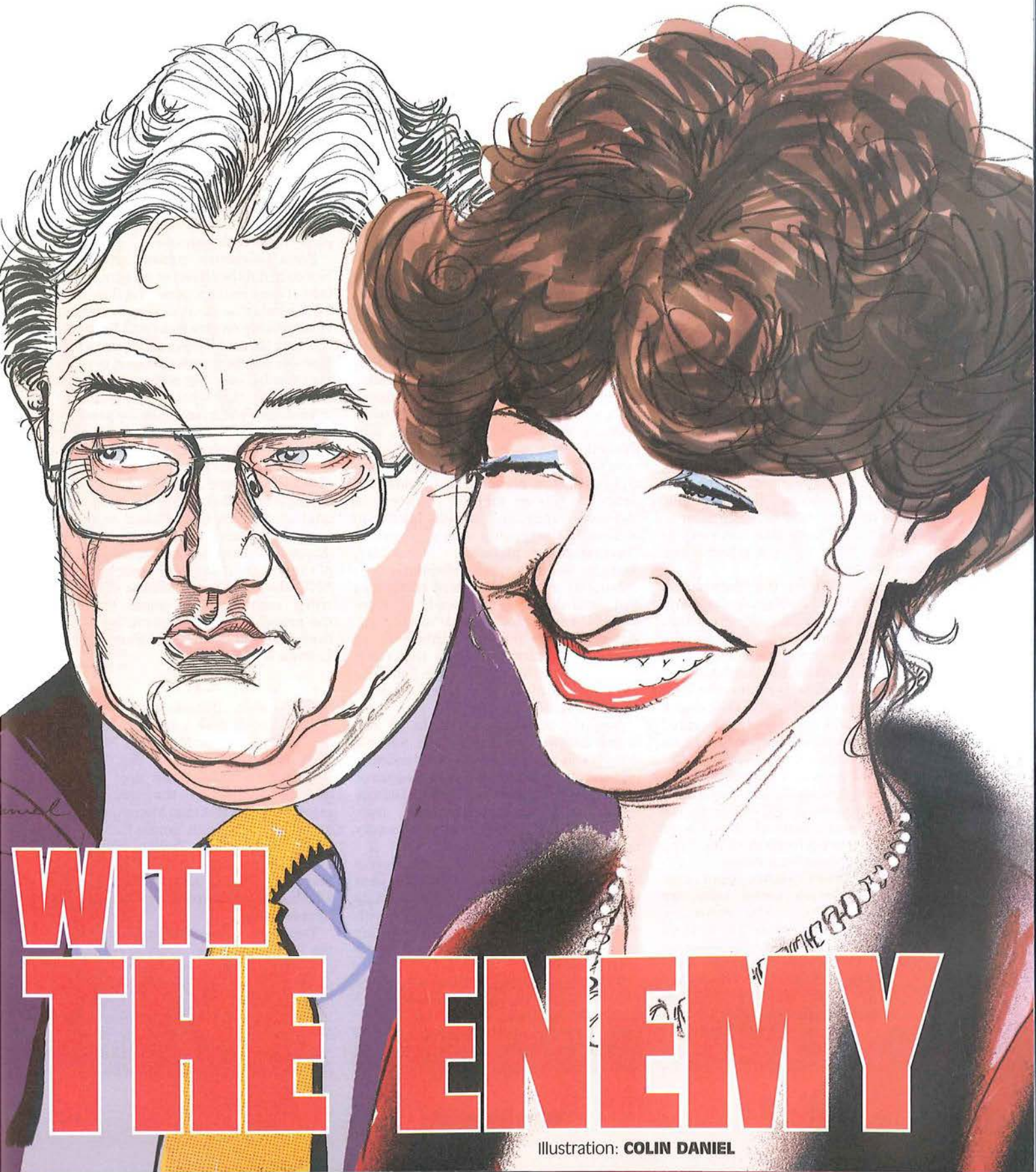
The story becomes even more intriguing when you consider who immediately took the R800m-plus windfall profit and ran: the shareholders of a newly created little company in Canada with three South African directors. Who were those shareholders? We wouldn't know now, would we – because most were nominees, some based in offshore tax havens...

What we do know is that one of the directors – the company president – happens to be Manda's friend, mentor and former attorney partner, Martin Brink!

But like all good stories worth telling, we need to begin at the beginning...

SLEEPING

Manda Scheepers was able to beat Barry Davison. That was the attraction. She was very clever and it drove Barry Davison mad because Amplats lost the Trojan case – or so it was said...



WITH THE ENEMY

Illustration: COLIN DANIEL

Petite young law graduate Magdalena Scheepers – Manda to her friends – was articulated in 1986 and 1987 to Martin Brink, a Pretoria attorney who specialises in the law relating to mining and mineral rights. Brink was then in partnership with a Mr Pfaff, but, by the time Manda completed her articles and qualified as an attorney, Pfaff had left the practice. Brink was clearly impressed with his protégé: not long thereafter the firm became known as Brink and Scheepers.

Manda remained in partnership with Brink until 1992, when she moved on to join the mining rights department of major Johannesburg law firm Webber Wentzel Bowens.

Her mentor and former partner Brink, it seems, had decided it was time to go into the mineral prospecting and mining business with two friends, Dr Roger Scoon, a geologist, and Lawrence Blomkamp, a wealthy businessman from Pretoria.

They were most interested in the – by then obviously huge, but still unexploited – mineral riches of the Bushveld territory previously called Lebowa, but then called Northern Province (now Limpopo.)

Ever since the various Land Acts of the 1930s, the mineral rights over so-called Bantu Trust land vested in South Africa's head of state who, as trustee, was to exercise those rights in the best interests of the relevant "Bantu" people. The head of state could delegate some of these powers to particular ministers in his cabinet. Such was the paternalistic approach of the day.

When in the 1970s the Nationalists set about their "self-governing and independent" homelands policy in earnest, authority in various areas devolved to the new homeland authorities – sometimes in a fairly haphazard way, without a proper legal basis. The mineral rights over land in Lebowa were transferred to the Lebowa government, who until 1991 delegated the administration of these rights to its development corporation. But by 1991 minerals had become a serious issue in Lebowa – too serious for the unqualified officials of the development corporation to handle – particularly when they were having to deal with the likes of the smart boys from Anglo.

Lebowa's government came to the realisation – some say too late – that something had to be done. The Lebowa Legislative Assembly passed the Lebowa Minerals Trust Act, which went into effect in 1991. The development corporation fell out of the picture. (And Anglo had had such a happy relationship with its

chairman, Dr Pretorius!)

In terms of the new law, mineral rights in the territory vested in the Lebowa Minerals Trust, with Lebowa's chief minister as its trustee. He was to be advised on these matters by a specially created board of experts, known as the Lebowa Mineral Trust Board.

From that moment on, life in Lebowa was never quite as comfortable or as much fun for Anglo American and its various subsidiaries as it had been before the advent of the LMT. The LMT's expert advisors were too smart to have the wool pulled over their eyes.

Although, as far as platinum was concerned, Anglo's Amplats had got things pretty well tied up in Lebowa before the LMT got going.

Or so they thought.

When the homeland government fell away after 1992, the President of South Africa simply stepped into the Lebowa chief minister's shoes as trustee. The LMT and its Board continued to function until it was finally dissolved in 2002. (Although after a secret weekend of meetings between senior government officials with Barry and Manda at Amplats' luxury bush hideaway Whiskey Creek in October 2000, it was effectively sidelined. But, that's the story we're getting to.)

So back in 1993 when Brink, Blomkamp and Scoon were planning their search for riches in Lebowa mineral territory, as they saw it they had only one barrier to overcome: the mighty Anglo American Corporation's platinum subsidiary, Amplats, and its various subsidiaries.

Amplats and its associated companies had over the previous decade or more succeeded in cornering and "locking up" platinum-group mineral rights over 28 farms in the former Lebowa that cover almost the entire length of the two reefs that contain 80% of the world's known platinum resources.

Amplats' strategy was plain to see: it did not wish to exploit the mineral deposits on all these farms (it intended to mine on only two of them); it had acquired the rights in order to exclude competitors – such as Brink and partners – from entering and "spoiling" its near-monopoly market.

But Brink and friends were sufficiently well informed to know that the joint venture agreements that Amplats and its associated companies had concluded with the old homeland authority, to gain this control, were both legally and politically controversial.

So the mighty Amplats was vulnerable – particularly in the climate that prevailed from 1992 onwards.

On the legal front, Brink (with help, if need be, from erstwhile protégé Manda) was as well qualified as any to exploit

any deficiencies in the agreements that Amplats was relying upon to sustain its monopoly.

In 1993 Brink, Blomkamp and Scoon (soon known simply as "BBS") registered three new companies with themselves as shareholders and directors: Trojan Exploration, Trojan Mineral Holdings and Trojan Platinum – the Trojan Group. Their choice of name was prescient: whether intentionally or not, it suggested a particular type of strategy for penetrating that barrier.

Soon enough, however, BBS discovered that there was a second barrier to their entering the Bushveld to hunt for platinum: their skin colour. On the race politics front, BBS were as politically vulnerable as Amplats. That was not so easily dealt with in-house.

From adversity comes opportunity. Not only did they need to present a black face; if they could acquire one they might even be able to use it to expose Amplats' vulnerability on this front still further!

It took them two years to acquire a black face – or maybe it took that long to realise they needed one. But when they did – in June 1995 – they went black big-time.

Their new black face was to be presented by a new company, called Mampudi Mining. Black citizens of Limpopo held the majority of its shares; and the majority of directors were black, and influential amongst the tribal people who lived on the land over which they wished to acquire prospecting and mining rights. These directors were able to gather declarations of support from the local branches of the ANC, the PAC, Sanco, Nafcoc and all the tribal authorities in whose territories the prime platinum deposits lay – even from the local Communist Party and the Lebowa Royal Family!

Brink, Blomkamp and Scoon each held a smaller number of shares in Mampudi Mining in their own names. But they were not naive: they kept effective control of the company by means of a contract that Mampudi signed, at its inception, with Trojan Exploration, in terms of which Trojan, still wholly owned by BBS, was appointed to manage Mampudi's affairs and its business. And all Mampudi's board decisions had to be by consensus.

Two months later Mampudi applied to the Lebowa Mineral Trust to be granted prospecting rights over the three farms on which their major supporters lived: Maandagshoek, Garatow and Driekop.

In October 1995 the LMT ("Mineral rights management on behalf of the people of Northern Province" its letterhead declared) replied, stating *inter alia* the following:



"It should be clear to yourselves that the rights applied for cannot at this moment, in law, be granted to any other company as they have already been granted to the JCI Group [part of Anglo's stable]. We have noted the contents of the letters from the various structures within your region, but once again we reiterate that no amount of support from [such political structures] will allow the Lebowa Minerals Trust to unilaterally take away prospecting and mining rights that have validly been granted in terms of a mineral lease agreement entered into during 1989."

In the same letter it was also noted that Trojan Exploration had, in its own name, instituted court action against the LMT challenging the legality of the rights granted to JCI – but that Trojan might agree to withdraw its action if the rights applied for were to be granted to Mampudi.

The letter also contained a suggestion: "Should your company be willing to contest the validity [of the notarial agreement in terms of which the Lebowa government had granted Amplats 25-year mineral leases over the farms] in a court of law, you should feel free to do so." Or was that a subtle invitation? Mampudi's directors knew they had the sympathy of the LMT's board of experts, who had long held the view that Amplats' mineral rights in the region were invalid and contrary to the best interests of the population of Limpopo – and should be contested in court.

So, by the end of 1995 BBS had succeeded in seriously upping the odds for Amplats and any supporters it might have in government – on both the legal and political fronts.

But then something strange happened. Unknown to BBS's black co-directors in Mampudi Mining, Trojan Exploration had acquired the base mineral rights (the mineral rights other than those to the platinum group) on a farm adjacent to Driekop, called Winnaarshoek. In 1996 Trojan contrived to enter into a legal dispute with the holder of the platinum-group rights over the same farm, an Amplats subsidiary called Vansa Vanadium. Martin Brink's old partner, Manda Scheepers, now at Webber Wentzel Bowens, was instructed to represent Trojan in the case.

And then something even more extraordinary happened. A settlement of the dispute was reached in terms of which Barry Davison would do the unthinkable: he was prepared to sell Vansa's platinum rights on Winnaarshoek – on their own, worth in excess of R400m – to Trojan for

a mere R24m.

Before the deal was formally concluded, Brink, Blomkamp and Scoon flew to Canada to register a new company on the Toronto stock exchange, called Platexco Inc. All three became directors, with Brink the company president. Its holding company they registered in Bermuda. Next they sold all their shares in the Trojan group of companies to Platexco for an unknown, but no doubt modest sum.

Only then – on 10 July 1997 – was the settlement agreement between Trojan/Platexco and Amplats/Vansa Vanadium signed. While the terms of that agreement remain a tightly guarded secret to this day, some of them have become apparent from events; others have had to be published in terms of Canadian securities laws.

Among them: BBS undertook to resign as directors of Mampudi and to give its black directors no further advice or assistance. They resigned from Mampudi's board the next day.

With no funding or advice, Mampudi's directors were powerless. That dealt with Amplats' immediate political problem. But the legal problem raised by Trojan's challenge to all those mineral leases remained. How was that solved?

From adversity comes opportunity remember? BBS now discovered that, while Winnaarshoek did contain an extremely valuable platinum deposit, it could rationally best be exploited by setting up a mine on the neighbouring farm, Driekop. Yes, the farm that Amplats controlled in terms of one of those contentious mineral lease agreements. One of those that Mampudi, on Trojan's advice, had wanted to challenge. So what did Barry and Manda do? They offered Platexco/Trojan a sublease of their mineral lease over Driekop – for free! All R500m worth of it.

Then a yet more extraordinary detail emerged in a statement released to the members of the Toronto stock exchange. Once they got the sublease on Driekop, Platexco's shareholders planned to sell all their shares – in Canada – to Impala Platinum (Implats), Amplats' only serious competitor, for just short of R900m!. All with Barry's (and the Reserve Bank's) consent!

We, too, would reckon that was sure to silence Manda's old friend Brink – and who knows who else – on the subject of Amplats' mineral leases. And it would help establish some handy offshore nest eggs for whoever those lucky Platexco shareholders were.

All that remained to be done was to get Mrs Phumzile Mlambo-Ngcuka to consent to the sublease. To get the minister of minerals and energy's consent, they would first have to deal with the LMT's troublesome board of experts – who could

be expected to advise her against approving the deal. (As they in fact did.)

Getting around them took a bit of time. And time was pressing. To succeed, according to the statement issued by Platexco in Toronto, the deal had to be concluded by December 2000.

On 6 October Manda went to visit her friend at the department of minerals and energy, the director of mineral development Adv Martin Mononela for tea – and suggested that the department should appoint a negotiating team that excluded any of the old LMT advisors. He agreed to advise the minister accordingly.

(Mr Manonela was clearly sympathetic to Angloplat's problem. "As negotiations progressed, I started questioning the role of [the LMT's] outside lawyers as it was apparent to me that they were inflexible and played hardball during the negotiations. I conveyed my concerns to the DG," he has declared in a court affidavit.)

On 9 October Manda wrote him a letter containing the following interesting paragraphs:

"In an attempt to resolve the issues relating to the Joint Venture Agreements it is proposed that negotiating teams representing the government, the LMT and Anglo Platinum meet to find a creative solution [Indeed! – Ed.] to these issues before the end of 2000.

"The negotiating team on behalf of the Government and the LMT will be Adv M Monomela [he was, ex officio, a member of the LMT's board], Mr J Rosha and Mr N Maloi [the Minister's personal advisor]. Please confirm that your team will have the necessary authority to bring the matter to closure ... and that they will be available to devote three days exclusively to such negotiations.

"The negotiating team on behalf of Anglo Platinum will be Mr B Davison, Mr J Dreyer and Ms Scheepers ..."

The meeting took place at Whiskey Creek, over the weekend of 18 to 20 October 2000. As reported in *nose54*, Manda and Barry celebrated its satisfactory conclusion by spending the night together.

The Minister announced her approval of the sublease to Platexco on 30 November, by implication giving her approval to all Amplats' mineral subleases in the region.

Maybe that was worth R900-million. But we'd still like to know who those lucky Canadian – or is it Bermudan? – shareholders were. **W**





BLIND EYE: SARFU boss Brian van Rooyen

Who pays the whistleblower, calls the tune

A baffling spate of amnesia has hit a group of high-profile witnesses in a pensions payout probe being conducted by the Scorpions in Limpopo

As the Scorpions continue to investigate claims – first made in *nose50* – that Ngoako Ramatlhodi, while still premier of Limpopo Province, and one of his MECs each received up to R5m in secret kickbacks related to a contract to manage the province's R4-billion-a-year pension payouts, a key witness has quietly been put back on the pensions contractor's payroll at R100,000 per month – provided he keeps his mouth shut.

And a second important witness quoted in the *noseweek* story – rugby boss Brian van Rooyen, no less – we hear suffered an acute attack of memory loss when approached by the Scorpions investigators. That prompted a re-examination of our record of his original interview with us – and the discovery that Van Rooyen had, in fact, told us an intriguing detail that we had omitted to mention: according to Van Rooyen, a third member of the Limpopo provincial cabinet, the then MEC for Health and Social Welfare, knew about the kickbacks to his colleagues.

He happens to be Selo Moloto, who has since succeeded Ramatlhodi as Limpopo's premier! But when we asked the new premier for comment for this month's *noseweek*, he denied all knowledge of Van Rooyen's claims.

Former Premier Ngoako Ramatlhodi,

a close friend of President Mbeki, has a legal background and was expecting promotion to Penuel Maduna's post as minister of justice after the general election earlier this year – or, at the very least, to take over from Bulelani Ngcuka as Director of Public Prosecutions (and boss of the Scorpions). But as the shockwaves of the *noseweek* story – and other media revelations about Ramatlhodi's financial affairs – continued to ripple through the political community, those prospects waned.

noseweek's main whistle-blower on the story was Habakuk Shikoane, Limpopo's 76-year-old cane furniture king, veteran ANC member and old friend of Nelson Mandela. But now he's not talking any more – ever since, we are reliably informed, he was cut back into the "kickback" scheme with a R500,000 payment of "arrears" and the promise of R100,000 per month from now on. The *quid pro quo*? A confidentiality clause. Talk, and it could be the end of his newfound cashflow. An agreement drawn up by Polokwane attorney Solly Mohale and Academy of Learning franchise owner Gideon Serote stipulates that their deal is strictly confidential. The inference could be that, if there are any more disclosures about those secret

payments, then the deal is off.

The pay-off has been made by Mohale and Serote, through their company Micromatica 216. This company holds a 40% stake in Cash Paymaster Services (Northern), the now 100% black empowerment company which from December 2003 has operated a new three-year tender to distribute around R4bn a year in pensions and welfare grants in Limpopo.

In *nose50*, Shikoane told us Premier Ramatlhodi, and Thabo Mufamadi, his MEC for finance and economic affairs, had received secret payments of around R100,000 a month for four years from Nichol, an empowerment company that originally held 30% of CPS (Northern) – JSE-listed Aplitec at that time holding the controlling balance of 70%.

When Shikoane made his revelation he was in a fury. Although the above-mentioned Mohale and Serote were Nichol's only official shareholders, Shikoane had for years assumed that he too held a slice of the company. Certainly, he had been receiving his regular R100,000-plus from the R700,000 that Aplitec dished out every month to CPS (Northern) "in lieu of dividends or profit share".

But then, when Aplitec was orchestrating CPS (Northern)'s bid for the renewed 2003 tender, Shikoane found himself abruptly cut out of the action.

Now Mohale and Serote, in an attempt to appease Shikoane's ruffled feathers, have agreed to pay him a third of the estimated R300,000 that Micromatica 216 receives every month from Aplitec. (The remaining 60% shareholders in CPS [Northern] are local women's groups and the like, and they collar the monthly balance of circa R400,000).

But Shikoane's payoff may have come too late to bring comfort to

former premier Ramatlhodi and MEC Mufamadi. Talk in informed circles is that he and his attorney had already been to the Scorpions to make an extensive statement. Shikoane is said even to have recounted in his statement to the Scorpions how, when he asked Mohale and Serote why it was necessary to give the premier and the MEC "these large payments", they told him that they had to do so – because both top officials had assisted in securing the initial 1996 pensions tender for CPS (Northern).

The Scorpions are now in the closing stages of an investigation into the whole

Of late there's been a deathly silence from Brian van Rooyen

murky affair. High level arrests are expected.

Ramatlhodi became premier of Limpopo in 1994. Mufamadi was MEC for trade and industry from the same year – and chairman of the Limpopo Tender Board from December 1997 until February 2002.

Certainly the pressure is on Mohale and Serote. Armed with search and seizure warrants signed by Judge Ronnie Bosielo, the Scorpions have swooped on their homes and removed documentation. Mohale and Serote have now instituted an action against the Scorpions in Pretoria High Court, seeking to have sight of the affidavit the Scorpions presented to Judge Bosielo in

justification of their application for the search warrants.

So, what then of *noseweek's* second source, who in *nose50* said that he too knew about the secret payments to the then premier and MEC? Of late, a deathly silence has been maintained by Brian van Rooyen, president of SA Rugby Football Union and chairman of Labat Africa, the venture capital company that lost out in last year's bid to wrest the Limpopo pensions payout tender from CPS (Northern).

Like Shikoane, Van Rooyen was pretty angry last October when he spilled the beans to *noseweek*. He promised: "We will subpoena those we know are involved – Premier Ramatlhodi, MEC Mufamadi, Habakuk [Shikoane] and three or four staff members. They all know about the secret shares held by the [then] premier and MEC Mufamadi – I was told they each received R120,000 a month for four years."

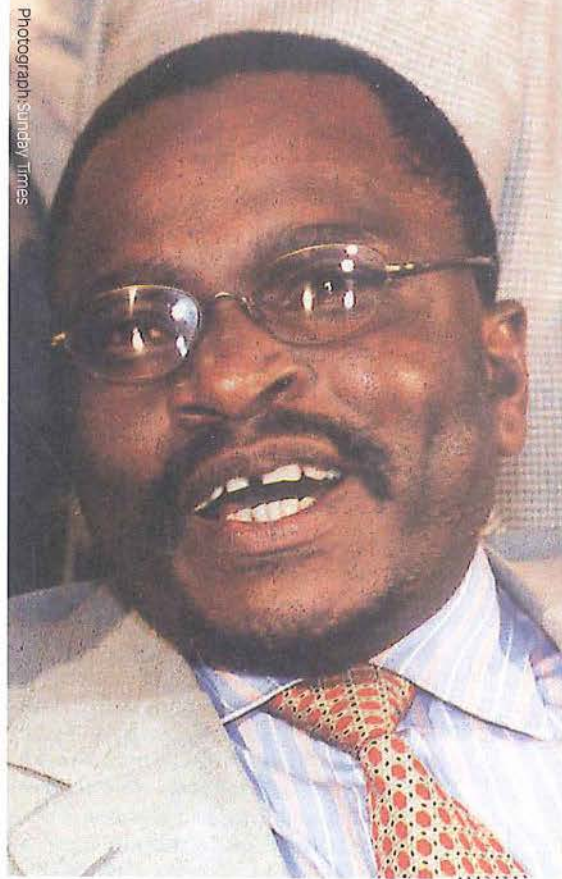
Now the detail we forgot to mention: We asked Van Rooyen who told him about the scam. His reply: "... the MEC for health, tipped to be the next premier".

That was Sello Moloto – who in April this year replaced Ramatlhodi as Limpopo's premier. In a statement, advocate Tommy Ntsewa, chief-of-staff in Premier Moloto's office, says: "The Premier does not recall any meeting where he had discussions with Mr van Rooyen on the matter at hand. It therefore stands to reason, and cannot be true, that the Premier is or was the source of allegations of impropriety against the former Premier or anyone else for that matter.

"Mr Van Rooyen is the aggrieved party in this case and the law entitles him to call all his witnesses, including those officials he alleges were aware of the alleged secret payments to my colleagues. In fact, those officials will themselves be guilty of misconduct by omission if they intentionally failed to report crime taking place."

But we are now led to believe that, when the Scorpions went along to interview Van Rooyen, he had developed amnesia.

Last year Van Rooyen told us he was looking for R300m in compensation for having been denied the pensions tender. Certainly, Labat Africa could do with the loot. Although, as chairman, Van



FUNNY BUSINESS: Former Premier Ngoako Ramatlhodi

Rooyen hauled in emoluments totalling R2.4m in the 12 months to February 2004, the company recorded a pre-tax loss of R19.9m (after a R19.3m profit in the previous year). In recent weeks the share price slumped to an all-time low of 13c, from a high of 82c in May 2002.

Eagerly awaited, therefore, is Labat Africa's forthcoming action against the Limpopo tender board in Pretoria high court, in which Van Rooyen is seeking to have CPS (Northern)'s pensions payout tender reviewed or set aside. His attorney, Glen Steyn, refuses to tell *noseweek* when the hearing will take place, which adds fuel to rumours that there has been some kind of out-of-court settlement.

What are we to make of his refusal to answer our calls? Is Van Rooyen holding his thunder for the Pretoria high court? Or has he been prevailed upon to drop the case? Any guesses?

■ Despite the black empowerment front company CPS (Northern), Aplitec still retains financial control and carries the risk for the Limpopo pensions payout tender. It has provided R4m worth of software and hardware, as well as 1.2m smart cards worth R23.4m. On 1 July the Aplitec group de-listed from the JSE. It is to fold its operations into US-based Net1 UEPS Technologies, which is listed on the conveniently distant Nasdaq. **W**



CANE SPIRIT: Furniture king Habakuk Shikoane

Kahnivores in fee frenzy



BOTTOM LINE: Brian Kahn (right) takes a brief

If you're planning on getting divorced and decide to retain the services of the famed Johannesburg matrimonial attorney Brian Kahn – famed, we hasten to add, not only for the portrait on the right – you'd better have a healthy bank balance. Consult one of the lawyers at his plush Jan Smuts Avenue practice and the hourly fee is around R1600 (plus VAT). And the "private tariff" charged by Kahn's firm quickly mounts up. Readers will recall the whopping R5.9m that the flamboyant attorney secured in costs when he represented Brenda Kaye in her divorce from Solid Doors magnate Ian Senior (see *nose51*).

After disputing the bill, Ms Kaye was persuaded to accept a mere R150,000-odd refund in a secret settlement. But now Kahn has had his high costs challenged again, this time by wealthy Johannesburg anaesthetist Dr Colin Nates.

In February 2002, Colin – whose marriage to Dawn was heading for the rocks – went along for an "initial consultation" with Kahn and the head of his family law department, attorney Fiona Marcandonatos. That meeting was free.

On 14 March, Nates again met Kahn and Marcandonatos, to discuss the eviction of his wife from their Saxonwold home. That was a paid-for consultation and "confidences" were exchanged.

On 17 April Nates reported to Kahn that

MINE'S BIGGEST: At R1800 an hour Terry Fine spares no expense

Divorce, we are told, is a painful and difficult experience – for the unhitching couple, that is. For the whooping lawyers administering the marital last rites, it's a time to feast and rejoice

he had received a divorce summons from his wife. That same day Kahn's firm dispatched an eight-page "letter of engagement" to him. It informed him that, while there was a "party and party" tariff in both the magistrate's court and the high court for attorneys' charges, these were set at a lower rate [a much lower rate] than the rate that applied at Kahn & Co.

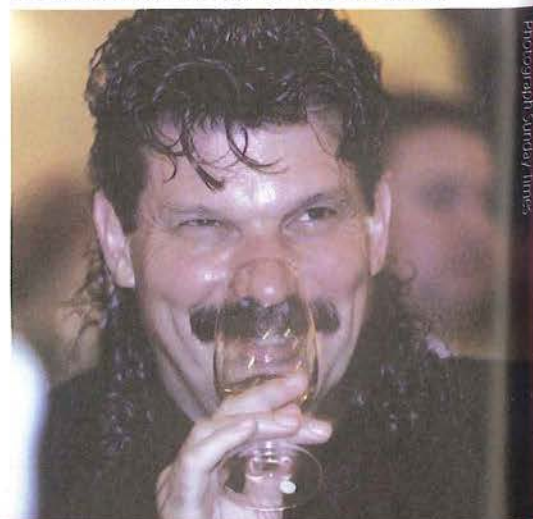
"As many attorney/client relationships have deteriorated or disintegrated because of monetary haggles," the letter explained, "we prefer to advise of our remuneration policy upfront." It declared that in order to avoid "litigious environments" [Read: "embarrassing exposure of our outrageous fees in open

court" – Ed.], any dispute over money would be resolved by private mediation or, failing that, arbitration.

Nates had fondly imagined that, for the money, he would be guided through his divorce by the great Kahn himself. Instead, he found himself in the hands of the charming, but less imposing, Fiona Marcandonatos. The embarrassing subject of Nates' assets caused some friction between them. First, said Marcandonatos (in subsequent court papers), Nates had told her they totalled R2.5m. But in September 2003 he admitted that he had approximately R8.5m offshore. The disclosure, says Marcandonatos, came after Mrs Nates secured evidence abroad of these funds.

Now, suddenly, Kahn appears to have taken a personal interest in his client. He invited Nates to dinner and suggested that for an "initial" fee of R5000 he would introduce Nates to an accountant who would assist in declaring his overseas assets to the Reserve Bank. "I thanked

HAIRY CASE: Billy Gundelfinger calms his nerves before visiting the barber



him for his efforts, but advised him that I had my own accountant and that I would declare the overseas assets through him, which I have already done," said Nates in his own replying affidavit.

After this dinner Nates terminated Kahn's mandate on 1 October 2003. Kahn promptly submitted his account. It came to R299,641. Nates paid R120,773, but withheld the balance of R178,867. On the advice of his new attorney, the equally famous Billy Gundelfinger (whose hourly rate of R1700 plus VAT is just that much more than Kahn's) Nates requested that Kahn tax a bill of costs.

Kahn refused, saying that Nates was bound by the engagement letter. He must go to mediation or arbitration – and in the meantime hand over 80% of the outstanding R178,867.

Nates, who by now had switched from Gundelfinger to yet another attorney, Terry Fine (more expensive still, at

R1800/hour) refused. He claimed he had not received Kahn's private tariff when confidences were first exchanged and that he was therefore not bound by the terms set out in the letter of engagement. Kahn's costs, he maintained, were in any case unfair and unreasonable.

Kahn responded by suing the anaesthetist in the Johannesburg High Court, seeking an order that the dispute go to mediation or arbitration.

On 22 June this year Judge Seretta Snyders dismissed Kahn's application with costs. "Compared to the usual process that an attorney's client can insist on, that of taxation, the choice of mediation and, failing that, arbitration, could translate into a rather costly

process," said the judge.

She said that the letter of engagement dated 17 April 2002 was posted to Nates well after confidences were exchanged on 15 March that year. And the benefits for Kahn in the letter of engagement translated at least potentially into disadvantages or prejudices for his client.

In the absence of a complete bill of Kahn's charges, the court was unable to look at Nates's contention that Kahn's charges were unreasonable, said Judge Snyders. To resolve that dispute Kahn must draw a detailed bill and tax it.

The now-divorced Colin Nates is still waiting for this to be done.

Watch this space. **W**

DISH OF THE DAY

Brian Kahn Inc's fees at 1 January 2002:

(They've escalated each January since by 10%, so that, for example, the first item listed below at R330 is now R400, hence the reference in our story to a rate of R1600 per hour.)

Attendances and Consultations R330 per quarter hour.

Telephone calls R110 per 5 minutes or part thereof.

Perusal of documents R55 per folio.

Preparing and typing file notes and aides memoir R50 per folio.

Drafting documents R165 per folio.

Debate/discussion with internal lawyers R330 per quarter hour.

Briefs to counsel R50 per folio.

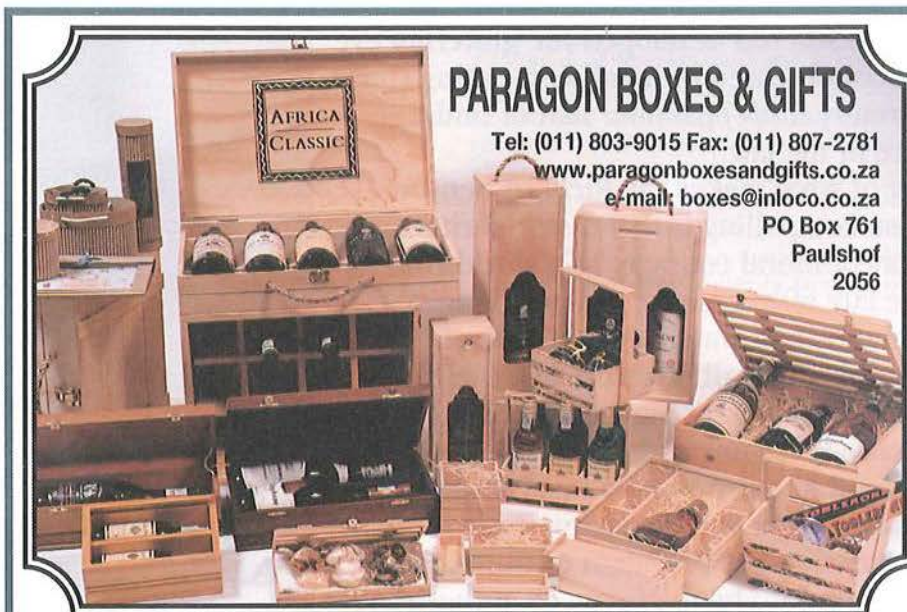
Travelling time R165 per quarter hour (R330 if accompanied by client).

Photostats R2.28 per page. **Any other particular service** (ie collating documents) R330 per quarter hour.

There is also a "General all-inclusive fee" for applying "a trained legal mind".

"This charge will be a fluctuating amount and will be charged as a globular amount, from time to time as and when appropriate, and is over and above any specified amount, item or activity referred to in the tariff."

Input by a second lawyer working on his/her own will be charged out at the full rate. Reduced to 50% when working (ie attending the same meeting) with the lead lawyer.



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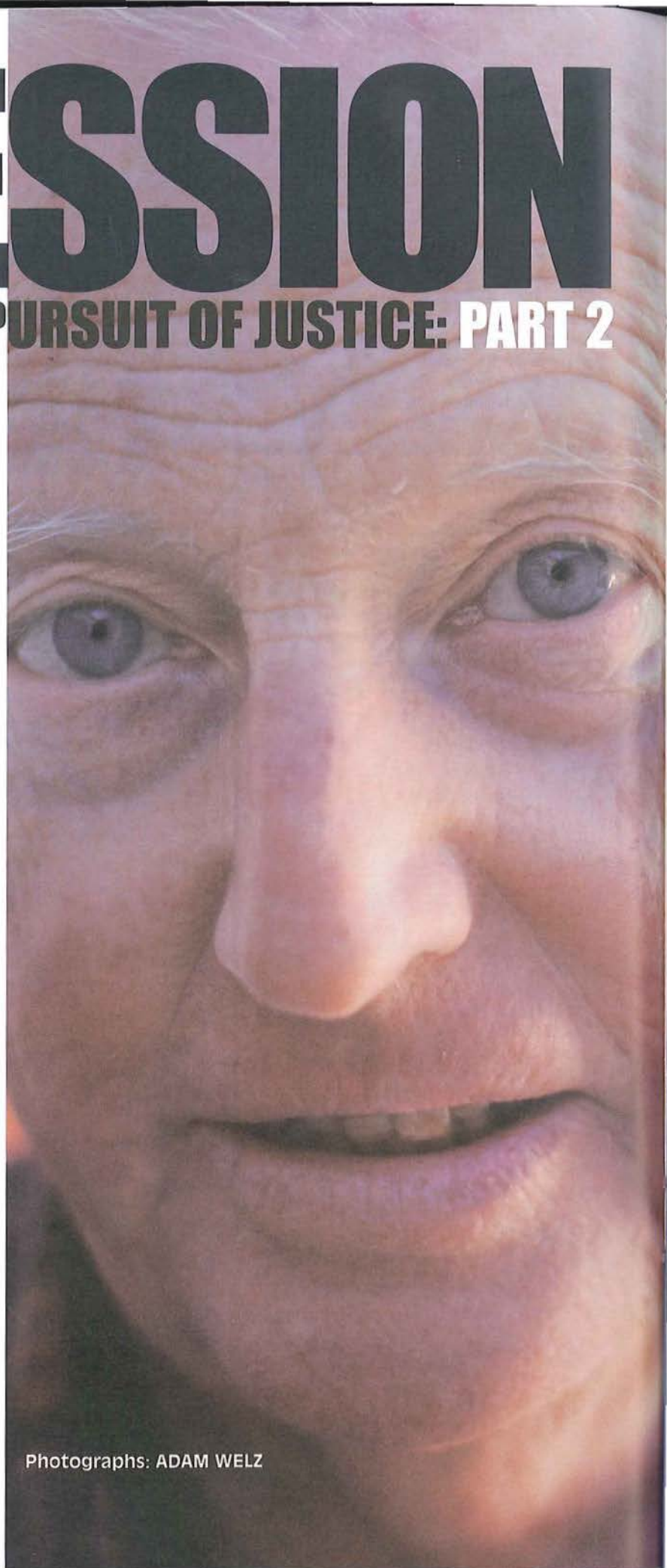
ONE MAN'S LIFELONG PURSUIT OF JUSTICE: PART 2

In the first part of our story "Obsession: A Life Spent Searching for Justice" (*nose59*), we described Richard Benson's (right) 30-year ordeal at the hands of corrupt and incompetent lawyers. Over the years, we said, Benson has developed the glittering eye of a man obsessed by an all-consuming (but apparently futile) passion: that of finding justice in the law.

Part of what makes the Richard Benson saga so compelling is that it starts with a display of moral courage. As a stockbroker in the late 60's, Benson was unwilling to stand by and watch as hundreds of thousands of small investors lost their savings in a stock exchange swindle that enriched some of Johannesburg's wealthiest and supposedly most respectable businessmen; a swindle shamelessly sanctioned by the president of the exchange, and covered up by the financial authorities. There are good reasons why, today, more than 30 years later, tens of thousands of South Africans still recognise the names National Growth Fund (NGF) and National Fund Investors (NFI).

Here, in Part II, we tell the story of NGF and how the legal action Benson initiated on behalf of those investors led to much of his subsequent legal nightmare.

In Part III – to appear in our next issue – we tell how it also prompted a vendetta against Benson, starting with a secret, illegal, blacklisting by the JSE committee. And how, 10 years later, Old Mutual's share trading department set out maliciously to persecute him in an action that wiped out his finances so that he would never again be able to challenge the establishment in court.



Photographs: ADAM WELZ

When financial consultant Richard Benson was asked in the late 1960s to market National Growth Fund (NGF) units – the latest in unit trust funds controlled by National Fund Holdings (Pty) Ltd (NFH) – he jumped at the chance. They were the market's no.1 best seller!

He and thousands of others were equally excited when, soon thereafter, NFH announced its intention to list a new subsidiary company on the Johannesburg Stock Exchange, called National Fund Investments Ltd (NFI).

The South African unit trust industry was booming and NFI subsidiaries would control the two major funds, NGF and South African Trust Selections (SATS). And now it was going to be possible for the “small man” to get a slice of the action!

Admittedly, shares in this desirable new listing were going to be hard to come by, but people who already owned NGF or SATS units – or who bought them by a certain date – were promised

of JCI, Henri de Villiers, a director of Standard Bank (and a sidesman at the Anglican cathedral), and F Haslett, MD of SA Eagle Insurance.

The principal shareholders in NFH included such well-known companies as Sentak, Volkskas, JCI, Rand Mines, South African Eagle and Syfrets Trust. The combination of all that establishment credibility with the perceived energy of business wunderkind and NFI CEO David Abramson implied NFI was as blue chip as could be.

According to Abramson, NFI was on its way to becoming a financial services giant. As soon as the man in the street cast aside “unfounded” fears about the risks of investing in shares, the money would pour in. What was needed was public trust, advanced computer systems (so that thousands of small investments could be processed efficiently) and an attention-grabbing incentive to get South Africans to part with their savings.

NFI had them all. A major incentive was the National Property Fund (NPF) that, according to the prospectus, NFI was immediately to establish. It was certain to be a huge success, said the NFI promoters.

would not get the go-ahead from the JSE committee.

To qualify for listing, NFI's prospectus had to be correct in all its assertions; NFI had to be solvent; and shareholders had to have their share certificates before listing, so that they knew how many they had and could transact with them immediately after listing.

But as the listing date (first set for August 1969) approached, at least one of those requirements was not being met – to Benson's knowledge. Many who had applied for shares had not received their certificates. Worse, despite Abramson's promises of advanced computer systems, NFI was not providing even basic accounting for money paid in. One of Benson's clients who had paid R40,000 (primarily to secure his “preferential” allotment of shares) received a receipt for R40 and an allotment of five shares. He was one of thousands who received incorrect documents and share allocations.

In many cases, when money was paid, a temporary receipt was provided with a promise of a full accounting later. When Benson sought clarity from Cape Town NFI manager Pieter Nel, he was

“Bring me the money. Forget about the accounting”

– Cape Town NFI manager Pieter Nel

“preferential” allotments of NFI shares.

Most newspapers carried a coupon that you simply cut out and returned with a cheque. Or you could go to your bank, accountant, attorney, or broker and hand over cash for growth fund units (or for insurance policies investing in them) in order to qualify for an allocation of NFI shares. Financial journalists were convinced that the NFI share price would rocket after listing; those who managed to acquire “preferential” share allocations were set for a windfall.

It all seemed pretty safe. After all, the promoters – all directors of the existing holding company, NFH (they would also become directors of NFI), included people like Dr HJ van Eck, chairman of the Industrial Development Corp., Henri Kuiper, collector of fine art and chairman of South African Associated Newspapers (owner of the *Sunday Times*), F J L Wells, a mining man and director

The prospectus attracted praise from the most seasoned financial journalists; many of them rated the unique Property Fund as the clincher. Expected to be a bigger earner than standard unit-trust funds, it would also bring in substantial income for NFI from property administration.

Abramson was right: The money began to pour in. South Africans cashed in their life savings to get their hands on as many qualifying units as possible. Some mortgaged their homes to buy more. Benson, his staff and their clients, joined the melee.

The JSE has listing requirements intended to ensure security for investors in a newly listed company. Money raised by a company before listing must be retained in trust, to be repaid to investors if the listing does not go ahead on the stipulated date. If NFI's promises were false, or were not met, the listing

told he was being difficult. “Bring me the money,” was Nel's response. “Forget about the accounting – that can be sorted out later.”

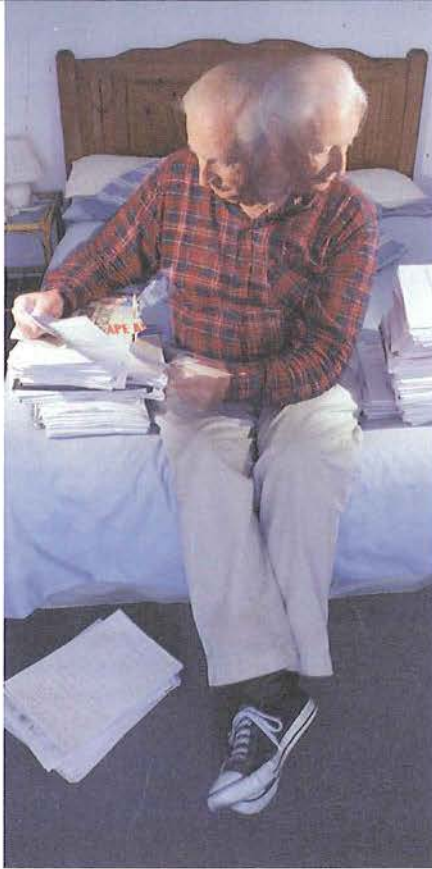
Even those of Benson's clients who had correct documents were unhappy with the paltry number of NFI shares they received. They wanted answers. Benson was spending more and more time (and money) trying to get them from NFI – to no avail.

As listing day drew near, he turned to the Shareholders' Association of South Africa for assistance. When the association and Benson approached the JSE they were told that NFI had assured the regulator that the “vast majority” of shareholders had received their share certificates. And that those “few” who had not received their shares by listing day would be covered by an offer to buy their shares at the middle market price on that day, so they would not suffer

loss. Claims of incorrect accounting were dismissed as "exaggerated": the company was "just a little behind". Even so, the listing date was postponed to 8 September 1969. By then, not much had changed, but the JSE remained curiously unconcerned and the listing went ahead.

On listing day, the NFI share price rose to a high of 465c (pre-listing subscribers had paid 150c a share) and the middle market price was 405c. By the next month, the price had dropped back to 150c. At the end of December 1970 it was down to 14c – a drop of 97% since listing day. Nearly 200,000 ordinary South Africans who had invested their savings stood by in disbelief. Those who had borrowed money from banks had to repay their loans and were in many cases left penniless.

When shareholders who had not received their share certificates by listing day tried to get NFI to buy their



at NFI: its unit trust managers had been unable to process some R236m in investments in unit trusts that had flooded in since March 1969! But neither the JSE nor the Registrar of Unit Trusts had seen fit to inform the public that this key component of the prospectus had fallen away.

The reason for the paltry allocations of "preferential" shares also became evident. Of the 60 million issued NFI shares, only 13 million were made available in the aggressively advertised share offer – and roughly half of these had been allocated to directors, managers, staff, agents and "business associates" of NFI, leaving only some 6.5 million shares as "preferential allocations" for the thousands upon thousands of people who were conned into buying growth fund units in order to qualify for an allocation. "Business associates" seemed to include nine of the 16 members of Prime Minister John Vorster's Cabinet, including Vorster himself.

Ordinary applicants paid a total of

The company was already insolvent the day it listed

shares at the middle market price (as per the JSE committee's assurance to the Shareholders' Association), they were told that the offer had been made to the JSE, not to individual shareholders, who could not rely on it.

As the months went by, more and more investors approached Benson for help. He eventually represented more than 12,000 shareholders. He tried to help them, while exhausting himself and his resources along the way, and being defamed as a troublemaker.

It was only when the first annual report of NFI was made public in December 1970 that the causes of the collapse in the share price finally emerged. In short, it turned out that the company was already insolvent on the day it listed; those illustrious promoters had contrived to pass their own losses on to NFI and its unwitting subscribers who, thanks to the JSE committee having allowed the listing to take place, now had no comeback.

The first annual report revealed that

the administrative chaos from March to September 1969 had cost NFI more than R4 million in extra administration costs. The only tangible assets the company had prior to listing were some R2m in assets handed by NFH to NFI in exchange for masses of NFI shares. NFH also "sold" some R9m in "goodwill" to NFI. In all, NFH had been allotted 44 million of NFI's 60m shares (at their nominal value of 25c each) in exchange for these assets and "goodwill"!

As the losses at date of listing exceeded the tangible assets, the goodwill was valueless and the company was clearly insolvent. In addition, the application to operate a National Property Fund (central to NFI's profit projections) had, it now transpired, actually been turned down by the Registrar of Unit Trusts in July 1969 – two months before listing. The registrar had refused to approve the property fund inter alia because of the extent of the administrative chaos

R19.5 million for their 13 million shares. More than R4m of this was immediately used to pay the unanticipated costs, incurred before listing, because of the promoters' mismanagement.

Adding insult to injury, NFI's first annual report disclosed that, despite the fact that the proposed property fund had not been approved, NFH (the promoters' holding company) had nevertheless transferred the redundant properties it had acquired, with the intention of selling them on to the fund, to NFI itself at full cost price, inflicting a further loss of R3m on the NFI subscribers. So, of the R19.5m collected in the share issue, only just over R12m remained because of this transferral of losses from the promoters to the NFI subscribers. But if the subscribers now thought that, for their money, they had shares worth R12m in cash, they were sorely mistaken. Nearly 80% of the value in the company (their cash) effectively now accrued to the promoters – those big names who had contrived to pay next to nothing for their

80% of the company's shares. In effect, the R19.5m in hard cash invested by the 200,000 was immediately worth less than R2,5m to the investors. No wonder the actual market value of their shares in December 1970 was only 14c a share.

Worse still – Benson's investigations showed that millions of shares had been sold immediately after listing day – but not by the man in the street. Insiders, knowing the disastrous state of the company's affairs (the public was kept ignorant by the directors and their friends, the JSE committee and the registrar of unit trusts) were selling millions of shares "forward" while the price was still high – without actually having the shares to sell. They knew (because of their insider knowledge of the state of the company) that the share price would soon fall dramatically – in time for them to buy in any shares they needed for delivery to their innocently optimistic victims at a much lower price.

The listing should never have proceeded. The Registrar of Unit Trusts should have informed the general public that the NPF had been banned, at least temporarily. Had the JSE done its job and called a halt to the listing, the subscription money would have been repaid in full to subscribers. But that, of course, would have left all those eminent promoters without profits, some dud properties – and a nasty bill to pay.

When the promoters and directors would not answer questions, the shareholders turned to the requisition provisions of the Companies Act. Hundreds of shareholders signed petitions calling for a meeting. The NFI directors challenged the authenticity of the requisitions and generally used every stratagem to avoid dealing with the anger of those they had fleeced.

During 1971 Benson received a strange invitation. General Hendrik van den Berg of the Bureau of the State Security (Boss), flew him to Pretoria. After being led through one security door after another, Benson was ushered into Van den Berg's presence. The general wanted to hear Benson's interpretation of the causes of the NFI debacle, which had caused a general collapse on the JSE. He wanted to know if "Anglo American and its associates" had made a deliberate attempt to collapse the South African economy in order to undermine apartheid.

Benson told him that his opinion was that NFI had been a financial fraud

on a grand scale. His interest was in seeing those responsible brought to book and investors repaid. That was the last Benson heard from Van den Berg.


Shortly after this meeting, Sanlam announced that it had bought the promoters' NFI shares for about R7m. There was no relief for the victims of the fraud. Sanlam stripped NFI of the unit-trust fund management companies and sold the rump of the business to a company controlled by Jan Pickard. The name of NFI was changed to SAGIT Ltd and, shortly after Pickard took over, the company was delisted and removed from the JSE. Many of the remaining shareholders refused the derisory offers made for their shares and lost everything. The names of the NGF and SATS funds were changed and the original names of the company and its mutual funds were erased officially, if not from memory (as was clearly the intention).

But Benson and his clients refused to lie down. After Sanlam took over NFI it was announced that the requisitioned meeting would finally take place. But, Benson and others were told, no questions would be allowed at the meeting and the directors merely intended to issue statements. Benson did not attend the meeting in Johannesburg but took the precaution of sending the directors of a secretarial bureau in Johannesburg to the meeting armed with other shareholders' proxies.

At the meeting NFI handed numbered statements to all the members of the press who were present. The statements roundly condemned Benson and his shareholders. Kuiper, who remained on the board, made a scathing attack on Benson and other shareholders who had complained.

When the press and the secretarial bureau passed on the comments made at the meeting to Benson, he was advised by his lawyers to issue summons for defamation and did so. The defendants were Kuiper and his fellow directors. Their response to the summons was to pay R5000 into court as damages and to offer to pay Benson's legal costs.

The collapse of NFI caused a massive loss of confidence in the JSE, precipitating the biggest collapse in the exchange's history. Of some 450,000 people who owned shares on the JSE in 1969, nearly half held NFI shares or shares in associated companies such as Sentak. (Sentak shares dropped from R31 a share to 97c a share.) Many were ruined and never recovered.

[See Part 3 in our next issue] 

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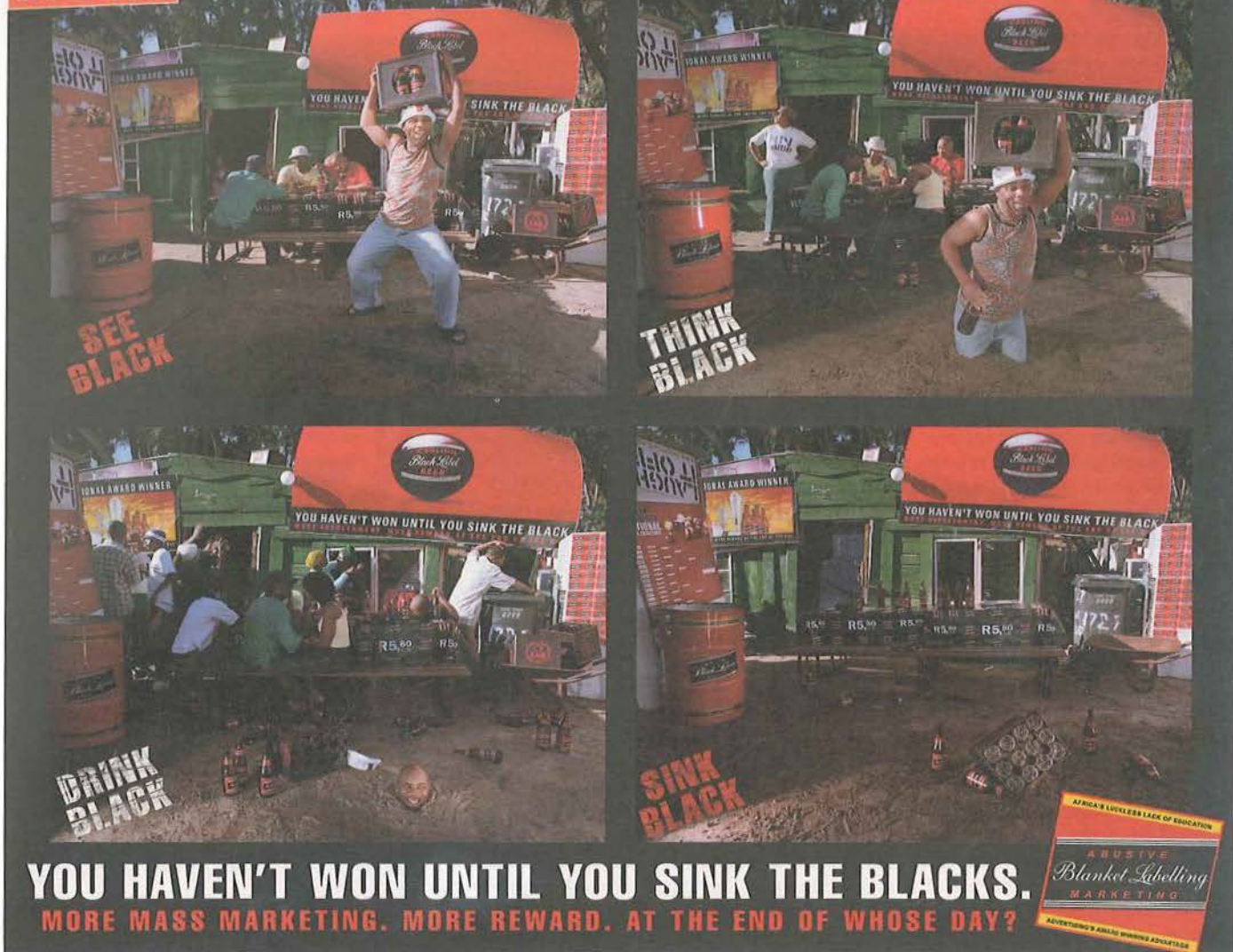
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BLACKS TO THE WALL: The young satirical artists at Laugh-it-off remain undaunted by the legal onslaught from South African Breweries that followed their earlier send-up of the Black Label logo, as this exclusive preview of one of the pages from their 2005 calendar demonstrates. With 13 satirical images for each of 13 months, it's

a must-have collaboration between Laugh-it-off and renowned photographer Obie Oberholzer. It goes on sale in November. Laugh-it-off's appeal against the Cape High Court's judgement in favour of SAB in the "Black labour, white guilt" case was about to be argued in the Appeal Court in Bloemfontein as noseweek went to press.

Under the hammer (but no slammer) for Berlowitz

"Hang on, Mr Berlowitz, your time will come," we wrote of Mercantile Bank's attorney in an editorial in February. We didn't mean it quite like this:

A note from the classified section of *The Star* in August announced the impending sale of items from the insolvent estate of one A Berlowitz. To our surprise, we have learned that the Berlowitz in question is none other than worldly-wise Jo'burg attorney Anthony Berlowitz, who has featured so unfavourably in various *noseweek* stories. (See noses30,49,50,53,54.)

What could have happened, we wondered? Had the poor fellow perhaps had his funds on deposit with Mercantile Bank?

We spoke to the trustee of the insolvent estate, Allan Pellow, of the well-known firm of trustees and liquidators, Westrust.

"I don't want to comment," Pellow told *noseweek*. "It's a very sensitive matter and we're still busy with the investigation. I expect there will be criminal charges laid shortly, and I don't want to prejudice the investigation in any way."

Well, well.

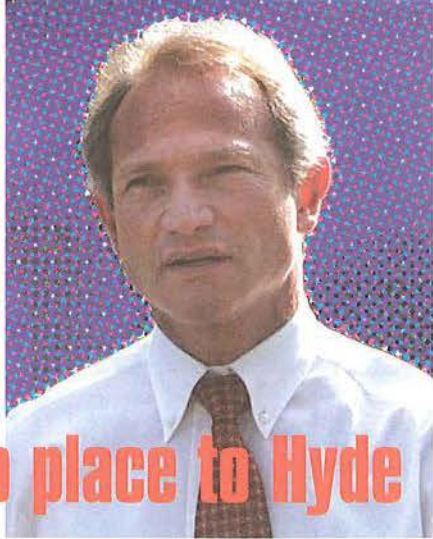
The only other thing Pellow would divulge is that it is not Berlowitz himself who is under investigation, but rather that Berlowitz had been the "victim"—obviously of a crime that caused him to go belly-up.

Only a sudden — unfamiliar — flush of good taste and restraint prevents us commenting further.

But watch this space.

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Johannesburg orthopaedic surgeon Wynne Lieberthal – the subject of a June *noseweek* article “Dr Jekyll or Mr High” – was struck off the roll of medical practitioners on July 23, following a hearing by the Health Professions Council of South Africa. The Professional Conduct



Dr Jekyll has no place to Hyde

Committee of the council found Lieberthal guilty on seven charges of unprofessional conduct. Initially he had faced eight charges, but one was withdrawn after the complainant died before she was able to give evidence. Another 22 complaints against Lieberthal from former patients were still pending, but will not be pursued by the Council, said the council’s registrar, Advocate Boyce Mkhize.

Readers will recall that *noseweek* reported on the growing controversy in Gauteng over Lieberthal’s unprofessional conduct, and detailed Lieberthal’s long career of drug abuse, dubious business practices and a more recent series of highly questionable medical insurance

claims. The fact that Lieberthal was still practising, we said, raised serious questions about the role of the council in regulating the conduct of doctors.

Our story also noted that Professor Einhard Erkens, head of orthopaedic surgery at Wits, had earlier described Lieberthal as “a caring surgeon, one of the few willing to work in the public sector,” and “one of the most brilliant orthopaedic surgeons the department has ever trained.” A veritable Dr Jekyll.

But, the council has now finally decided, the danger of patients encountering a drug-ravaged Mr Hyde when they enter his surgery is far too great a risk in practice.

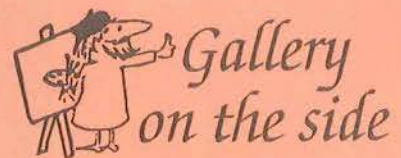
Hiss and chips for Hout Bay fishwife



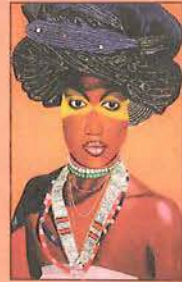
Shantaal Meter (left) – who once upon a time used to campaign (with husband Dicky) for the ANC and for the poor in Hout Bay, but has since come to appreciate the finer things of life enjoyed only by the new rich of the Party (see *nose57*) – was hissed and booed out of Marthinus van Schalkwyk’s otherwise surprisingly successful fishermen’s *imbizo* held in Woodstock early in August.

The new ANC environment minister was to have held his *imbizo* with the fisherfolk a week earlier in Hout Bay itself, in a bid to repair the damage caused by *noseweek*’s exposé of just who had – and who had not – benefited from government intervention on behalf of the “previously disadvantaged” in the local fishing community. But the minister’s advisors obviously assessed the local mood as angry, and the meeting was postponed for a week and moved to Woodstock.

Presumably, Woodstock was considered safer on the assumption that most of the angry poor of Hout Bay would not be able to afford the 30km trip. But a sufficient number pitched up to make life uncomfortable for Madame Meter – enough to make us moderately optimistic that the government will at last respond to the wishes of the fisherfolk they are supposed to represent.



“Seems everybody has a little something on the side.”



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Welkom by Telkom

How The Yanks, The Malaysians and The Government struck a secret telecommunications deal to rip off the country

Alas, dear reader, we are unable to distribute tissues or Prozac as part of our normal customer service – although we all need both when the subject of Telkom arises.

So, stem the tears of rage (perhaps a sip of chamomile tea would help?) and brace yourself: here's the very latest on how you are being royally ripped off. You knew that? Well, it gets worse!

Are you aware there is/was a secret shareholders' agreement between the "Government" of the Republic of South Africa and its so-called "strategic equity partners" in Telkom, SBC (Southern Bell, a.k.a. "The Americans") and Telecom Malaysia (a.k.a. "The Malaysians") and the Government of the Republic of South Africa? All of whom have proceeded to make billions upon billions in profits at our expense.

"Government" in quotation marks, because not even the Independent Communications Authority of South Africa (ICASA) has been allowed to see it – the body which is supposed "independently" to (stifle another sob) regulate telecommunications in the "public interest"! Yes, ICASA councillors appointed by no less than our President have been refused sight of said shareholders' agreement! We are talking big, BIG secret!

So, for "Government", read only the



executive running the country. Forget about the Members of Parliament in the Portfolio Committee on Communications who are supposed constitutionally to exercise "oversight" over the executive! (Here, no doubt, you are already doubled over with laughter.)

No, the MPs we elect with such expensive electoral excitement to protect our interests have not been able to peruse said secret agreement either. Not for want of certain Opposition members asking. Repeatedly.

It seems we have transparent government only until it really counts – i.e. when the goodies are to be dished out: then, as on SAA, the curtains between first class and cattle class are firmly drawn.

Our regular rambles through Hansard [*We miss nothing. - Ed.*] show the chairperson of ICASA, Mr Mandla Langa, telling MPs that sight of the secret shareholders' agreement would be, to him, like "finding the Holy Grail".

But occasionally the tinkle of crystal and delicious wafts of haute cuisine penetrate the first class curtain to hint at what the privileged would prefer we do not know.

The Minister of Communications, Ivy Matsepe-Casaburri, has, time after time, sided with "The Americans" and "The Malaysians" and rejected ICASA's recommendations – especially when it comes to tariffs. So she is obviously in on the deal.

In the post-liberation fervour to make money for the national treasury (and the Party?) and to comply with world trade agreements to open our markets, the then-minister, Jay Naidoo, in 1996, sold off 30% of Telkom to The Americans and The Malaysians for a few measly billion rands – peanuts, given the real worth of Telkom and exchange rate for US dollars. This turned Telkom from a public monopoly to a private monopoly. The game was on – and the South African public were the pawns!

MPs confirm that the 1996 Telecommunications Act was written specifically to accommodate the demands of The Americans and The Malaysians, before "they" would even deign to sign the secret shareholders' agreement (which they, needless to say, had a major hand in drafting). The ANC would brook no interference (read: would not allow any substantive amendments to the Bill being debated

by MPs). Double stitch-up!

And what else didn't we know? Maybe that, when it comes to foreign business, SBC of Texas (yes, Bush country) is only prepared to operate in monopoly markets!

Which might explain why in recent weeks, now that the five-year Telkom "period of exclusivity" (i.e. its monopoly over "voice" telephony in particular) is over, "The Americans" have sold half their Telkom shares to other American buyers, in the process recovering one-and-a-half times their total capital investment. (At the time they bought, the share was listed at R29. They sold at R80!) And they still hold 15% of Telkom, in effect for free! That's quite apart from the handsome dividends they have pocketed over the past few years. Can you hear, from beyond the curtain, the clink of crystal and voices purring "bottoms up!"?

SBC has long been renowned for being tough, ruthless, and litigious.

When it comes to foreign business, SBC of Texas (yes, Bush country) is only prepared to operate in monopoly markets

Well, put another way, self-serving at the expense of others. Ask the industry just how self-serving!

So what's been happening on the cattle class side of the curtain?

Remember the government's declared strategy to boost "universal access" – to millions of black South Africans in particular – to fixed-line telephone penetration?

Reach for the tissues again and swallow more bitter pills: Our research has revealed:

■ Our fixed-line tele-density is back where it was (some say it is less than it was) in 1997, when we gave The Americans and The Malaysians free hands to manage Telkom, making billions in profits, millions annually in pay and bonuses for a few Telkom executives, and seeing thousands of

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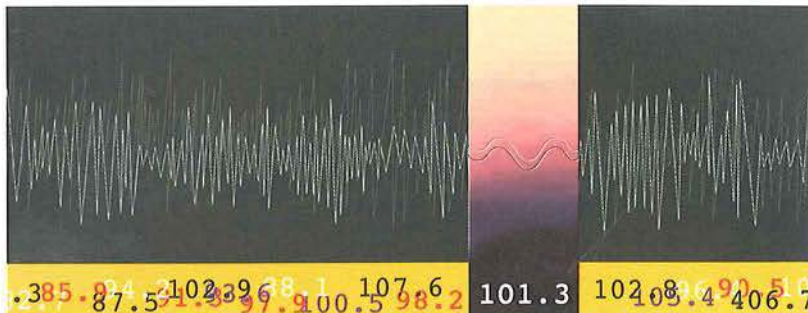
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Telkom employees fired or about to be fired, oops, voluntarily retrenched).

At the time of privatisation, Telkom was given mandatory service obligations to install 2.69 million new lines. During the next five years (according to research published last year by the LINK Centre for Public Policy Research at Wits) Telkom installed 2.8 million new lines, *but by 2002 only 665.819 of these lines remain connected to end-users!* Overall, fixed line network penetration, particularly in residential areas, had *declined* in the years 1999 to 2002. The very citizens government intended to link to Telkom services are being cut off because they can't afford the service. South Africa is one of the few countries in the world which has **DECLINING** fixed line teledensity!

■ It's not just the poor end of the market that is feeling the squeeze. The Online Publishers Association (OPA), which represents South Africa's top 16 online publishers, has just wasted its breath appealing to the government to bring Telkom to heel. The online

publishers have discovered that while they are paying Telkom R40,000 per month for a 200-gigabyte traffic bandwidth facility, their competitors in Britain can get a 500 gigabyte bandwidth facility (more than double the facility), for less than R3000 per month – or less than 10% of what they are paying Telkom! In short: Telkom's internet rates are killing their business.

■ Prices for a local peak time three-minute call have increased approximately 27% each year during the five years of the monopoly, or so-called "period of exclusivity".

So much for the benefits of "privatisation"! So much for bridging the "digital divide" and enabling millions of South Africans to enter the "knowledge economy" via the internet.

Billions in profits are trumpeted (R3.8 billion last year) and still Telkom tariffs continue to increase, even post the so-called period of "exclusivity". The regulator (ICASA) has so far appeared powerless to act. Which raises the question: Is the secret shareholders' agreement still in operation?

Will we, won't we, get a sight of said secret "shareholders' agreement" via that nice piece of legislation which includes the word "freedom", and says it "enables access" to "information"? (Any lawyers want to help us – for nothing? – in this quest? Public service and all that? Just asking!)

noseweek will keep you informed. PS: Asked by the *Mail & Guardian* to comment on the Online Publishers complaints, Nkenke Kekana, Telkom's group executive in charge of policy and regulation, said that it was important to "locate the debate in the South African context" and to "look at the total picture" before passing judgment on Telkom. We have, Mr Kekana.

Oh, and Mr Kekana also pointed to Telkom's "e-rate" that will halve the cost, from next year, of internet access for schools as "a very positive contribution towards the growth of the internet in South Africa." Telkom will halve its super profits on internet access from 1500% to 750% for a few schools.

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Wine for the money, two for the show

Writing my first column for *noseweek*, I feel I should be offering something with a whiff of scandal. Perhaps the unresolved business of illegal additives making cheap wines taste like expensive ones? But the most scandalous aspect of that story is the likelihood that the relevant authorities – the grey-shod Wine and Spirit Board – have a good idea of the identities of some of the guilty winemakers, but aren't telling, leaving rumour in control.

There's inevitably some scandal and skinner around black economic empowerment and how best to give a few rich people more money. In the very unreconstructed wine world it has centred recently on rumours of shady practice involving a body called the South African Wine Industry Trust. This has a complicated relationship to an empowerment deal cooked up between wine-producing giant KWV and others. A significant beneficiary, as far as I can see, somehow turns out to be one Christo Wiese, which surely guarantees that everything is squeaking with integrity. So, the main wine scandals being either boring or incomprehensible, I turn with relief to pinotage. While the Cape's own grape (the crossing of older varieties was done here, you see, in the 1920s) might not be surrounded by scandal, it is at least the subject of some controversy.

Many people dislike pinotage, and many (the producers, but others too) think it's great, either alone or combined with varieties to produce something often called Cape Blend.

In the 1980s pinotage became unfashionable. Then suddenly, in the mid-1990s, it took off – partly to satisfy the curiosity of foreigners now buying liberated South African wine. However, sneers have returned to fashionable faces, and pinotage is on the defensive.

Wine magazine is not very popular amongst pinotage's champions. Word is that the magazine abandoned its annual Pinotage Challenge in favour of a Shiraz Challenge because Tops

Tim James *hits the bottle*



at Spar, the sponsors, wanted to be associated with the chic image of shiraz, rather than pinotage's currently more dowdy one.

There certainly are poor pinotages about – at all price levels. But the same could be said for classy cabernet or (even more so, perhaps) sexy shiraz. And there are some very good versions of all these varieties – though pinotage at its best is unlikely ever to be as fine as the best shiraz or cab.

Few producers manage to make some

of the best pinotages at both high and middle price points, and chuck in a first-rate "Cape blend" as well. Beyers Truter, long a champion of the grape, unsurprisingly is one of these. He's left Kanonkop now, and in fact I find the famous Kanonkop Pinotage too oaky, a little dour, and too expensive. Truter's own pinotages from his modestly named Beyerskloof winery are preferable.

The Reserve is more sophisticated and intense (and pricey) and will benefit from a few years' ageing, though it is pretty likeable young. The standard Pinotage (the 2003 vintage should be the one on most shelves now, at something under R40) is, fortunately, made in large quantities and is even more outgoing: modest without being dumbed-down, fresh, thoroughly enjoyable, and only lightly oaked. The sort of wine that South Africa should be making by the mega-million litres, but isn't. Beyerskloof also has two Cape Blends, called Synergy, one a Reserve.

I recommend all three pinotages from Uiterwyk: the standard is another straightforward, enjoyable drink; the smarter De Waal, and the De Waal Top of the Hill at the summit of price and quality. The De Waal Cape Blend is a fine example of its type. (Uiterwyk persistently claims that this was the first such blend – but in fact Welgemeend beat them to it by nearly 15 years.)

A third winery making pinotages at different price levels is Kaapzicht. Steytler Pinotage is the fancily priced one, and fine it is – but the standard Kaapzicht will do when in a less elevated mood. Steytler Vision, mixing in cabernet sauvignon and merlot, recently won (for the 2001) an important international award simply as a red wine – to the huge pleasure of all Danie Steytler's and pinotage's many friends. Try any of these and you, too, will think the sneering at pinotage quite scandalous. ■



Photograph: Beeld

Readers will recall that Pienaar peevied Wesbank when he drove around flaunting huge banners proclaiming “WesBank forged documentation to gain market share”. That was the penultimate round in a feud which began in 1996, when the rear axle on his new Toyota 4x4 broke three days after delivery. He immediately cancelled the deal, as was his right, and claimed his R40,000 deposit back from Wesbank, who had financed the vehicle instalment-purchase. Wesbank has tried every trick in the book to avoid returning that deposit, even going so far as to produce falsified documents and having one of its employees lie under oath in court to win a court order against him. (Which was when Pienaar whipped out his banners.) In the latest round of the feud, WesBank is seeking to have him imprisoned for contempt of court.

But they should be warned that Pienaar is not a campaign rookie. His unique “I-take-no-crap from big motor corporations” brand of consumerism has a history.

Battle number 1 occurred about 15 years ago, and concerned a R150,000 BMW 325. “I’d been driving BMWs for 12 years without any problem,” says the 44-year-old property developer. “This brand-new white car had a noisy clutch. It made a hell of a noise.

“I took it to BMW SA and spoke to one of their customer care managers. I left the car there for a whole week, but when I collected it on the Friday it had exactly the same problem. They hadn’t touched it.

“Next Monday morning I arrived at BMW’s head office. At the gates, the customer care manager jumped into my car and said: ‘Good morning Mr Pienaar! Is your car sorted out?’

“That was it! ‘Sorted out? I’m going to drive your car right through your fucking building!’ I replied. I roared across walkways and through two large ornamental dams. The customer care manager jumped out of the car – with his briefcase – into one of the dams. I stopped inches from the glass entrance door and demanded to speak to the managing director.

“There was a hell of a commotion, but in the end they gave me a courtesy car while they took my car in. A week later I got my car back, sorted out. And, I believe, the customer care manager was fired.”

Car wars

Disgruntled car buyers were heartened by noseweek’s tale of one man’s battle against corporate power – now we discover this feisty fighter is a seasoned campaigner

The tale of Wesbank’s decidedly shady legal manoeuvres, over eight years, to avoid obligations to long-time client Pierre Pienaar (see *nose58*) has made a big impression on our readers.

We had hoped for a positive reaction from Wesbank itself, but maybe that was expecting too much; it would have been out of character for a financial institution that has become accustomed

to “lawyering” its way out of every difficulty. But, for the moment, the bank does appear at least to have been stunned into silence.

So far so good.

But our story also appears to have created the impression that Pienaar is a brave babe in the woods. Not at all. He is, in fact, a seasoned activist with a formidable reputation for dealing with vehicle manufacturers insensitive to their clients’ complaints.

Battle number 2 took place in 1996. It was dark and raining when Pienaar took delivery of a new metallic green Toyota four-wheel drive. "I took it home but couldn't inspect it properly, because it was raining so hard.

"Next morning I got up to wash this thing. It was the biggest shock of my life to see the whole car scratched from top to bottom, right through the metallic paint onto the base coat. It looked like somebody had washed it with sandpaper.

"When cars are imported, they're sprayed with a rubberised jelly to protect them during transit. They have to go through a special process to get that stuff off. But someone at Toyota had washed this car with a cloth and soapy water. It was like grinding paste.

"I said I wanted a new car. Toyota said: 'It doesn't work like that with a guarantee – we'll re-spray it'. I wasn't going to accept that. I'd paid R150,000 for a new car, I wanted a new car. I took it up with all the senior people at Toyota but, after three months, nothing had happened.

"One morning I decided this was D-

**It was absolute chaos.
Radio 702's helicopter was
hovering overhead, the
newspapers were there.
There were accidents
on the highway**

Day for Toyota. I made huge banners that read: 'Come and listen to my raw deal with Toyota SA'. I drove to Toyota's head office in Sandton and chained the car to their main gates with the banners stuck on the side of the vehicle.

"It was chaos, absolute chaos. Radio 702's helicopter was hovering overhead, the newspapers were there. There were accidents on the highway – everybody wanted to see what was going on at Toyota. Hundreds of workers in the Toyota factory went on strike, toyi-toying around the car, demanding that

Toyota give me my money back. In the afternoon, management took the car back and wrote me a cheque for the full purchase price – on condition that I went out and bought another Toyota."

He did just that.

Battle number 3 started (believe it or not) when that replacement Toyota broke down days after delivery and became the subject of the ongoing saga with Wesbank.

Battle number 4 occurred in 2000, with Nissan, over a cream four-wheel double-cab 2.7 turbo diesel (price around R150,000). "Six months after taking delivery I drove to look at a farm in the Warmbaths/Thabazimbi area," recalls Pienaar. "In the mountains the turbo pump oil pipe came off and the engine caught fire. Half of the car was burnt out.

"Nissan said: 'It's not our problem, take it up with your insurance company.' But this was a manufacturer's defect; other dealerships told me these cars were giving a lot of hassles with turbo pipes coming off. Nissan didn't want to admit the problem.

"Why should I throw my no claims bonus out the back door because their car burnt out? I went to Nissan SA in Rosslyn, Pretoria and spoke to the senior people. After a week's battle I made huge banners reading: 'Come and listen to my raw deal with Nissan SA'.

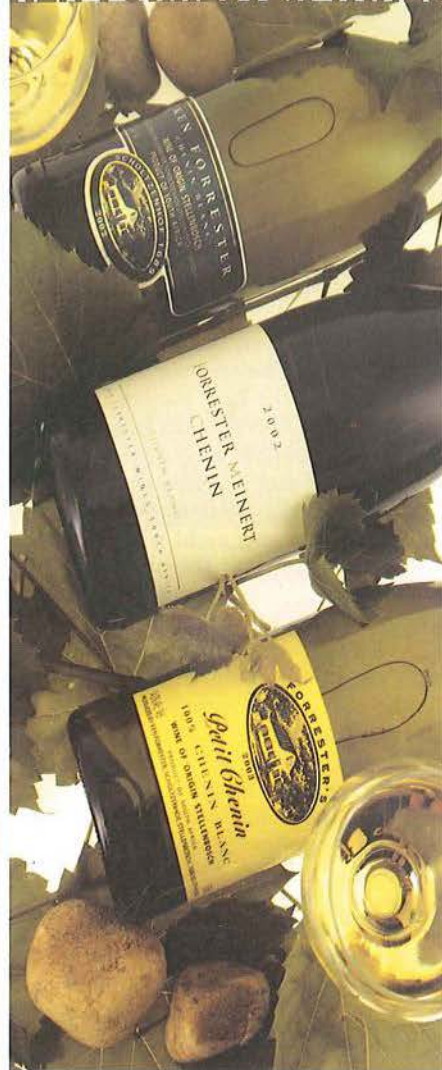
"I phoned Nissan and said: 'I'm loading this burnt-out car onto a flat-bed tow-truck and driving through town

to show people what a six-month-old Nissan looks like. Before I could load the car onto the flat-bed, Nissan phoned back and told me to leave the car at the dealership and pick up a brand new one."

Says Pienaar: "There's hundreds of people out there getting nailed by these big guys – and people just accept it." But his direct action methods take time and energy. "Why must we always go through all this commotion?" ponders Pienaar as he readies himself for the next courtroom round with WesBank.

Indeed. **W**

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Why did The Admiral cross the Road Accident Fund?

Joburg city centre attorney Admiral Khoza, present whereabouts unknown, is on the run. There's an application before court to have him sequestered; the Law Society of the Northern Provinces wants him struck off; and 14-year-old schoolgirl Thembi is just one of many clients chasing him for money – R4m, in her case.

Thembi was only eight when a car ploughed into her as she played in the street near her township home at Thokoza, East Rand, in June 1999. She was rushed to Natalspruit hospital with serious head and ankle injuries. At the hospital, a nurse pressed Khoza's business card into the hands of Thembi's father, Samuel Mgcina, suggesting the attorney might put in a claim for the child's injuries.

Mgcina retained Khoza who, two years later, accepted a settlement offer of R54,000 from the Road Accident Fund. It broke down to R35,000 for general damages, R14,000 for future medical expenses, a costs contribution of R1,800 and R3,200 for "expenses". But he failed to pass any of the money on to the victim's family, and vacated his city centre office in Johannesburg's Maclaren Street.

Mgcina then paid a visit to the Highlands North firm of attorneys Norman Berger & Partners – who had previously won him a modest amount when he injured a hand in an accident. The firm is well known for expertise in the professional negligence field, especially against fellow attorneys.

Partner Anthony Miller, who says that Thembi is permanently disabled as a result of her accident, traced "The Admiral", as Khoza is known, to his new premises in Johannesburg's Fox Street. Miller was horrified to discover that Khoza had accepted "an offer which he ought to have known was grossly inadequate". Plus the fact that he had not consulted the child's father before accepting it. And, worse still, that he had hung on to all the money.

"After some rather acrimonious



Why are we even surprised when we hear yet another story about an attorney stealing from his client?

correspondence, we managed to get R36,209 of the R54,000 out of him," says Miller. "His bill of costs came to R17,746, which seems excessive for the amount of work he appears to have done. Then he disappeared again."

Six medical specialists – a plastic surgeon, a specialist surgeon, an occupational therapist and three psychologists – were wheeled in for advice on Thembi's condition. And the combined total of what they considered due to her was a whopping R4m.

This broke down to R2.5m for future medical expenses, R1.3m for future loss of earnings, R215,000 for general damages and R4,843 for loss of interest on the R36,209 Thembi finally received, after a 315-day delay, from the Road Accident Fund settlement.

But how to get the R4m? Thembi might have had a claim against the Attorneys' Fidelity Fund, which offers lawyers cover for professional negligence claims. But the fund's insurers, Glenrand, say that Khoza has not come forward to seek indemnity. And, until he does so, they cannot open a claim.

So Miller has filed a R4m High Court claim against the Fox Street partnership he says Khoza joined. Two other attorneys were in practice there. One, Mr T.C. Maluleke, has moved out, leaving the surviving attorney, Arnold Mkhabela, holding the baby. Mkhabela is not amused by the situation: "I have no idea where Admiral Khoza is," he splutters.

So where is The Admiral, who was admitted as an attorney in November 1997 and turns 44 on 6 September? The Law Society has a new practice address for him in Ferreira Street, Nelspruit. But when head of "member affairs" Johan van Staden investigated, he found an empty office.

"We've heard he's selling chickens somewhere in Mpumalanga," says Miller.

On 26 July Miller placed a legal notice in *The Star*, advertising his intention to sue. "Once we have him sequestered, that will have a knock-on benefit for anyone else who wants to make claims," says Miller. "Claimants can then go directly to the insurer. The Insolvency Act provides for that."

In the separate High Court application to have The Admiral struck off the roll of attorneys, the Law Society of the Northern Provinces' former president, Mokgale Moabi, says the society has received "numerous complaints concerning the conduct of the respondent, which established he has not only not adequately attended to the affairs of various of his clients, but has misappropriated substantial sums of money." No date has yet been set for the hearing.

Clients whose attorneys steal from them can claim from the Attorneys' Fidelity Fund. The fund says it has

R28,276 by the fund – but The Admiral handed over only R16,500, nearly three months later, after Khoza was confronted with proof of the total payout sum. He never accounted to her in respect of the balance of R11,776 he had deducted for fees and disbursements. She has not claimed from the fund.

Khoza has previously been in disgrace with his legal brethren. He appeared before the Law Society's disciplinary committee on 8 August 2002, when he denied charges of misconduct. He was found guilty and was ordered to pay fines totalling R7000 for failing to answer correspondence from the Law Society, failing to perform professional work to the expected standard, failing to furnish a client with a written statement of account of fees and disbursements, and failing to lodge a deposit in his firm's trust account.

'We've heard [lawyer Admiral Khoza] is selling chickens somewhere in Mpumalanga'

– Law Society spokesman

so far paid out R582,000 for 13 claims from The Admiral's clients, with four totalling R240,000 still under investigation.

The Law Society has listed some of the victims in court papers:

■ Ms Mashaba was awarded R314,147 by the Road Accident Fund. She received none of it. The Attorneys' Fidelity Fund has paid her R272,000.

■ Mr T.H. Chauke was awarded R100,000 by the Road Accident Fund. He received nothing of this. The fund paid him R96,000.

■ Mr S.W. Mashaba was awarded R64,774. He received not a cent. He has not claimed from the fund.

■ Mapotiyela Mbuzeli was awarded R30,500 by the Road Accident Fund. He received nothing from The Admiral. He has not claimed from the fund.

Yasser Mngomezulu was awarded R31,800 from the fund, but received only R18,000 from The Admiral, with no account of his costs. The fund has paid him R28,000, so he's made a profit of R14,200!

Ms M.J.N. Letlape was awarded

The Law Society suspended half the fine for three years, subject to The Admiral's future good behaviour. But he hasn't paid any part of the fine – nor, apparently, has he gone in for much good behaviour.

So how's Thembi getting on in Thokoza? *noseweek* met her and her dad. She's now a pretty teenager, with trendy specs. In grade 6, she's a bit behind, but loves her township school. Despite her injuries of five years ago she says she's fit, can run and play games. Her complaint is the large scar on her ankle. "It looks terrible."

How will this poor family pay for the services of its new attorney, Anthony Miller? "One does things on a contingency basis insofar as you evaluate it at the start – and if you believe there's a case then you proceed," says Miller.

"We know that, based on the information we have, Thembi will in all probability, succeed, and she will then go and get treatment. Our costs will be paid by the defendant. If we don't succeed, we know the family can't pay. We would write it off." ■

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Happily ever after

Once upon a time – actually, it was a sunny day in July 2001 – Leonard Louw, a mining engineer at Driefontein gold mine near Carletonville, went to see his local Sanlam broker for advice on how best to invest the R613,000 pension payout he received when he left his previous job at Brett Kebble's Blyvooruitzicht mine. (Of course, he'd endured some unhappiness there.)

In no time at all, Louw had accepted broker Eugene van Eeden's advice to invest 80% of his funds in Sanlam's Gilt Fund, and the balance in a Sanlam money market account. (OK, we know this doesn't sound like Hans Christian Andersen, but hang in. – Ed.)

From time to time thereafter, Louw would receive a note from Van Eeden advising him of the progress of his investment. Invariably it was good news. As, indeed, it continued to be early last year, when Van Eeden reported that Louw's investment had grown to R793,000.

Which was just as well, because Louw had recently been divorced, and

By popular request, here's a story with a happy ending.

On those days when you feel the big financial institutions are out to get you, they probably are. But take heart: just occasionally you need not fear – particularly when Dr David Klatzow is near.

Yes, even banking and insurance stories can have fairytale endings. In fact the happy endings are usually all the happier for their sad beginnings. Dr Klatzow, well known forensic scientist and master negotiator, proves the point.

,now owed his ex-wife half his pension payout. That would give them about R400,000 each. So, in April last year, he applied to Sanlam to have half his investment paid out to settle up with his ex-spouse – only to be advised that his total investment was, in fact, worth only R306,711. After deduction of tax, that would leave him with only R217,000.

Quite apart from Leonard's own dismay, the ex Mrs Louw would surely not be happy with a settlement of a mere R108,000 – only a quarter of what she had been led to expect. (She most definitely was not. In fact she immediately suspected that Len had been up to some dirty dealing at the crossroads, and had her lawyer send him a letter along those lines.)

Broker Eugene van Eeden was now nowhere to be found. Louw frantically phoned Sanlam's customer care service for an explanation – lots of explanations. Repeatedly. They would offer to call back – and then fail to do so. They'd tell him they were unable to locate his file. Time and time again, they would say: sorry, bad luck, it was a bad investment, that's how things go sometimes on the



stock market. [Interesting: Old Mutual's call centre Traceys and Chantals are trained to attribute all client problems to the collapse of offshore stock markets and a poor rand-dollar exchange rate. – Ed.] After weeks, and dozens of such calls, he was ready to give up and accept his fate.

But the ex Mrs Louw was not. The letters from her lawyer grew more and more threatening, until, in July this year, Leonard's own lawyer suggested he consult forensic investigator Dr David Klatzow.

On 14 July Klatzow addressed some questions to Sanlam on Louw's behalf. Three of them are worth quoting:

"1. How is it that a company of your size and reputed expertise, of which I am constantly reminded in the media, can manage to lose half this client's money in so short a time?"

"2. Who advised the client to invest his money in this way?"

"5. Why is it that your company, despite the disastrous advice given to this client, still debits the man with a fee? I have come across some shameful acts, but this one must surely take the cake.

"I look forward to a speedy response."

Within a week he had a response from Hennie de Villiers, Sanlam's chief executive: operations. De Villiers reprimanded Klatzow for the tone of his letter – which he found "somewhat abusive" – and suggested that the level of their correspondence should be raised to a more professional level.

While noting that Van Eeden was the

adviser who assisted Louw, he went on to point out that Sanlam Personal Portfolios – the division Louw had dealt with – provides "investment products"; it may not provide financial advice.

He now disclosed – without blinking – that Louw's investment had been switched from one investment to another four times within a month in mid-2002 – which probably explained the sorry result, particularly since a "switch fee" and broker's commission would have been deducted on each occasion.

"All switches/re-investments were made under the written instructions of Mr Louw and we presume he was aware of the implications thereof," De Villiers declared loftily. He attached copies of the signed instructions.

"We trust that this more than adequately responds to your queries," he concluded.

Not quite.

Not a little provoked by learning that a Ms Nadia Kirsten from Sanlam had telephoned Louw to suggest that he should really not be using Klatzow to negotiate with Sanlam on his behalf (she suggested he talk to her instead), Klatzow addressed himself to Sanlam's senior manager: client relations, Dorea Ozrovech. "Your representative [Van Eeden] has defrauded one of your clients [Louw] substantially by forging his signatures," he told her. "A quick perusal by anyone on your staff would have revealed that the signatures were forged ... the identical nature of the signatures would leave no-one in

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any doubt about that. [They were all identical photostat copies of a single signature.] It seems strange that, under those circumstances, your Mr De Villiers should adopt this 'high and mighty' tone."

Nadia Kirsten's call, he said, "borders on the dishonest". He demanded a copy of the company's recording of her call.

And he was only just getting into his stride.

"I want it noted that you should have known, at the time of my complaint, that the man involved [Sanlam broker Van Eeden] had been arrested for fraud. You should have known full well that he was arrested

plus 15% compounded up until the day that you settle this matter."

He also thought it might be a good idea if they paid part of the fee he was charging Louw for his services.

On August 4 Mrs Ozrovech replied: "Sanlam is prepared to inject R343,961 into the investment. This will put Mr Louw in the same position he would have been in, had the fraudulent switches not taken place."

Sanlam also agreed to reimburse Louw for the full fee he had agreed to pay Klatzow - 10% of the amount recovered. Said Mrs Ozrovech: "This is in order to place Mr Louw in the position he would have been in had his



SANLAM CUSTOMER CARE CENTRE

at the airport in April 2003 with his family whilst trying to leave the country for Chile. It is of some concern that Sanlam did not 'come clean' with me about this when I phoned them."

Klatzow was now approaching the home straight. But first he had to tell Mrs Ozrovech about Louw's complaint: "When he requested explanations from persons at Sanlam, these were never investigated; he never received feedback and he had to keep phoning back to start the whole process again. This is very much my experience with the way in which your company does business."

Finally, the bottom line: "I think you must now come to the party. You must make good your promises to him at the beginning of your relationship. I expect nothing less from you than ... a restitution of his original investment

complaint been dealt with effectively in the first instance."

Congratulations are due all round: to Leonard Louw on his success and for hanging in there; to Dr Klatzow for earning his fee (*Naturally, we'll be billing him for this advertisement in due course - Ed*); and to Sanlam for, when it came to the crunch, not hedging, and for putting right what was wrong (and for employing a client relations manager who understands her responsibilities and the value of good client relations)!

■ Sanlam's forensic department has been instructed to investigate all transactions involving Mr van Eeden. Those found to have been affected adversely by his actions will be contacted in order to have matters rectified. ■

BY HAROLD STRACHAN

SONS INDGE RULLS

Spoekie van der Geest speaks

as if a finger's got stuck up his nose. [Editor's helpful suggestion: readers should also insert digits into nostrils and read the following passage aloud]. Woommine a sonsindge rull, says Spoekie, casting sidelong glances at Prem's Perfect Pie Palace over the way. A ou gont to keemp ump the prontein, laaik, says Spoekie.

Well I don't know about the sausage rolls and things for his inside, but he sure as hell could do with a few more things on the outside. Raiment for a start. The collar and tie tattooed on his neck and the stripy socks round his ankles I remember from boep days, and I notice he's now done a Rolex on his wrist too. But that's about it, excepting a suit jacket, and jeans with holes, and beach thongs on the tattoo socks.

Along with the raiment, a bit of soap on the outside wouldn't be a bad idea either. This is what used to be known in the Transvaal as a takhaar, one with caked hair like the branches of a tree.

At graze-time in Durban Central, Van Beestekraal, the section screw, would call out: Van der Geest, say your vokken prayers! and while we all sort of half-shut our eyes lest somebody fly off our food, ou Spoekie would mumble some Much Deformed platitudes in a piteous, wheedling voice. Which Protestant style had got him the job, of course. On Sundays the screw would say Van der Geest, sieng hiems! and Spoekie would whine out some abysmal Christian choon of guilt and blood and people getting executed on our behalf in the most ghoulish manner. Pitch was okay.

Don't buy foods for that fellow,

says my companion, Don't-Delay Pillay; one very bold rascal-bugger that fellow. Last time he told me he's collecting money for one large-size statue of Mahatma Gandhi at the beach, then he forgot and next time he says it's for a lighthouse-size statue of Nelson Mandela on the Bluff.

Spoekie is unabashed. No, he explains, the committee couldn't collect enough for that,



I suppose you also going to cut off Queen Victoria's head there, hey, put on one Winnie Mandela head instead? Enough! I cry

now they're going for something more modest; they're going to shorten the marble frock-coat of Sir Harry Escombe, in front of the city hall, and carve a sort of Caribbean flower pattern on it and put on a new Madiba head instead, nobody even knows any more who H. Escombe was and nobody ever looks to find out anyway. A donation of R5 will secure us a name-plate on the plinth. He produces from his suit pocket a piece of paper with National Monuments up top in ballpoint and many names, some written with his right hand, some with his left, some with curly writing, some in block caps. Some in pencil. Next to each it says: Donation R5, and at the bottom: Total R175.

Why you speak bullshits, you? says DD. I suppose you also going to cut off Queen Victoria's head there, hey, put on one Winnie Mandela head instead? Enough! I cry. DD, even a rascal-bugger such as described by yourself needs protein, and we shall cross the road now and eat sausage rolls.

Prem emerges, staring hideously, from his palace. If he comes in here I'll kill him! he hisses. Last time he came in here he took a sausage roll right in front of me and held it in his teeth while he looked in his pockets for money, and when I asked him what the hell, he said if I was going to be nasty I could keep the sausage roll, and put it on the counter. So I went round the end of the counter and chased him out, but when I came back I saw the sausage roll had gone with him, and I couldn't charge him with shoplifting because I had chased him out while he was finding his money, so now I'll just kill him!

Be calm! I cry, here is coin

for the last one, and now three more sausage rolls please. You just wait outside there, says Prem, I'll bring them out. Perfect Pie Palace indeed; we munch silently and DD's scorn subsides a bit. I go to give money to the blind bloke outside the supermarket, with his motorcycle battery and electronic keyboard, pounding away at some horrible tribal piece. Spoekie wipes his mouth on his sleeve and hands on his backside. He takes my money and tells the musician there's R2 if he lets him play his piano for five minutes.

He sits and plays a Bach partita, no shit; a bit weird on this piddling instrument, but it's of JSB all right.

Sometimes I don't know. I could find a moral in here, I suppose, but I'm working to a deadline, and anyway I'm allowed only one page. ■

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Biokleen antibacterial cleaning agent. Naturally organic and non-toxic (021) 782 5646 or cutisolve@mweb.co.za

Genealogy: Cape & SA Genealogy and Family History Services. We trace ancestors and heirs to estates. Email capesagenealogy@iafrica.com for a free assessment.

Humansdorp/Jeffrey's Bay Midas now under new management, range expanded to include fishing and cycling.

Alasa (Amateur Liars' Association) thanks *noseweek* for exposing those of us who have turned professional. C/o Box 2423, Parklands 2121.

All play, no work! Yacht ownership made easy. Ant Steward (021) 689 2704 or antsail@iafrica.com

Adult-based education and training (ABET). Contact Joyce Ndeza (012) 326 3170.

Car hire (Cape Town) Best rate & vehicle. Scenic Car Hire. (021) 439 1698.

Dental laboratory requirements: Phone Peet Engelbrecht (083) 567 4864.

Dante Interiors Supply, installation of complete window dressings and interior furnishings (042) 294 1806.

Enjin design & advertising Ruan Boezaart (082) 780 4900; Brett de Jager (084) 842 9970; enjin@kingsley.co.za

Improve communication in your business: In-house communication, reports, pamphlets and staff training. Marie (082) 698 1198.

Language and editing service JM Deane Tel/fax (033) 347 2090 or deans@mweb.co.za

Leading mathematics educator to assess funding and project proposals. Call Piet Human (083) 284 0129.

Pesco Services (KwaZulu-Natal) Pty Ltd. (031) 312 4510; pesco@saol.com; or www.pesco.co.za. Entomologists' clearance.

Safaris Professional, personal attention in arranging your next safari. Visit www.myfirstsafaris.com

Quality Painting & Waterproofing: Phone Judy at David Matthews, Painting Contractors: (021) 465 7067.

Research strategy Implementation and feedback. Call Overend Outsource. (011) 442 0289.

MTN Contracts Special Corporate rates. Free assessment offered. Contact Merle (021) 532 2225.

Staff training Free workplace skills analysis – identifying training needs. WH Projects cc: the best by far in construction (031) 202 1733.

Tax consultants or accountants: try a

demo of easy tax on www.easytaxsa.co.za
National College of Photography
 Evening, and a one-year professional course. www.photocollege.co.za
Theta Project Management cc
 Constitution project management specialist. theta@iafrica.com;
 (083) 226 1173

Alien vegetation clearing service in W. Cape. Experienced team. Phone Dave. (082) 492 5210.

Building plans, alterations & additions at reasonable rates in Cape Town. Contact McLeod. (021) 5315 5956.

Chauffeured Transporters and Tours (W. Cape) in comfort of 2004 Mercedes Vito minibus (082) 900-9911.

Full-grown palm tree offered Dig out and remove at your cost. Newlands (083) 955 5747.

Patrick Lander, Attorney, Westville. Commercial estates, family law. (031) 266 6396 or plander@mweb.co.za

Private and Corporate investigations Local and international, professional, specialized team. (011) 784 9290.

Property Investors Register today for free. No obligation. News on new and exciting developments. (086) 110 0073.

Sacks Butchery consistently delivers the finest grain-fed meat, for all occasions. (021) 788 8855.

Vet's Pantry Norwood Hypermarket and Bedford Centre for exclusive pet foods and advice. (011) 728 4720 and (011) 622 9079.

HEALTH & FITNESS

Back pain? London-trained therapist Barbara McCrea works from the Wynberg Pilates Studio (083) 745 7086 or (021) 788 9626.

Chiropractor Dr David Dyson specialises in back pain, neck pain and headaches. (031) 469 4192.

Alcohol or drug use problems?

Confidential assessment. Kenilworth Clinic (021) 763 4501.

Smokers Ever wish you didn't smoke? Smokenders run public & company programmes. It's easy & it works. Tel (021) 788 9120.

Sutherlandia Healing aids, herbs – or nails in the coffin? The shocking facts: www.gaiaresearch.co.za/sutherlandia.html.

Ender Sense Clinic Cellulite recontouring treatments. Natural face-lift treatments (011) 803 2289.

Eye Candy Treat your eyes. Shop 32, upper level, Hyde Park. Contact Gavin Klevansky (011) 325 4434.

FOR SALE

Lubilon high-performance lubricants. Save fuel and oil; increase power and engine life. (021) 782 5646 or Lubilon. agsy@mweb.co.za

Rosh Hashanah gift/fruit baskets to order nationally, now at Flowersong Florist (021) 702 2020 / 083 459 3352. jennifer@thegiftsolution.co.za

Icemakers from R2999 (ex VAT). Contact Inter Global Products. (011) 728 7146.

Beautiful Lavender Plants: Phone (021) 794 4953.

Imported copier paper: High quality at fantastic prices. Contact sales@papersmith.co.za; (011) 837 0979.

Law books Latest editions (2004) Criminal Procedure Act R80; The Constitution R35; Labour Relations R80. Tel/fax (031) 464 4311.

African Artifacts at their best Rowland Ward, Nelson Mandela Square & Montecasino. (082) 852 0661.

Original old brass ship's telegraph Contact John (083) 254 4942.

Portraits in oils of your pets with or without you or children. (021) 788 8117.

.co za domains soccerworld and southafrican beers. R10,000 each. Tel (082) 551 9034.

Southern Ropes Manufacturers of ropes, braids and twines. (021) 448 4978.

Citroen Diane R40,000. (083) 600 040.

WANTED

Ancient Egyptian artifacts and books on the topic. Phone Peter (082) 601 3830.

Books for D.A.R.G (animal rescue) Urgently needed for monthly sale. Will collect (021) 794 6666.

Original car jack with handle, for 1962 Jaguar E-type. Gauteng area. David (082) 601 1265.

EMPLOYMENT SOUGHT/OFFERED

Qualified hairdresser requires job in Joburg northern suburbs. Wilhelmina (011) 988 2833.

Part-Time work required Gauteng; evenings; prefer admin work; computer literate. Nothing illegal. Terence (083) 327 3020.

FOOD & WINE

Excelsior Estate For quality wines at affordable prices.

PUBLICATIONS

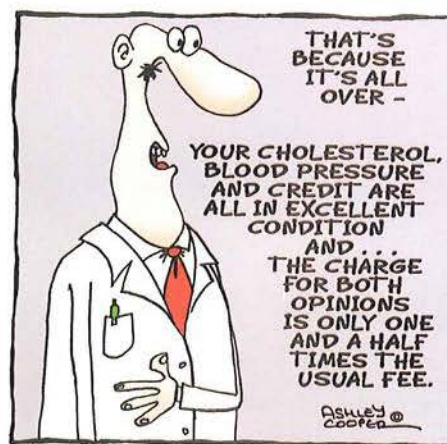
Tax Shock Horror Irreverent free monthly newsletter by Costa Divaris designed to keep you up to date with tax changes. Send email address to: Lesley@bsp-seminars.co.za

What's up doc?

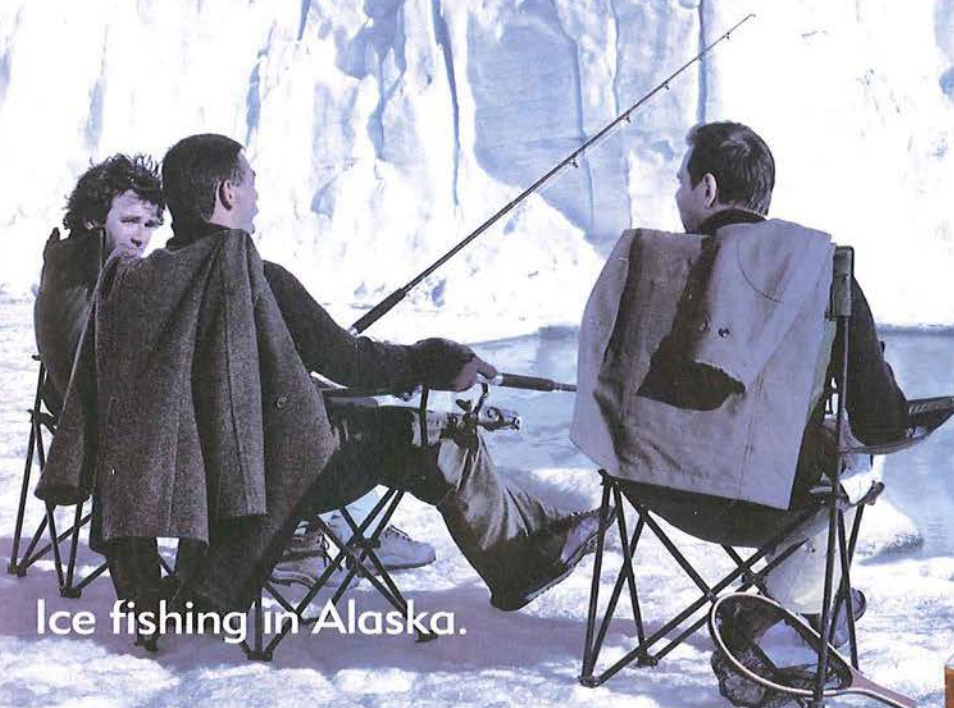
by Ashley Cooper



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